

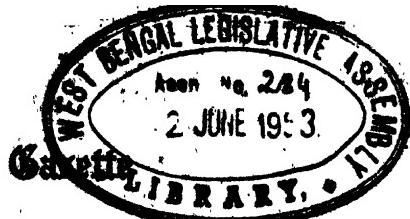


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Mem No. 284

2 JUNE 1953

THURSDAY, JANUARY 3, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

ORDINANCE NO. IX OF 1951.

THE INDUSTRIAL DISPUTES (AMENDMENT) ORDINANCE, 1951.

An Ordinance further to amend the Industrial Disputes Act, 1947.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Industrial Disputes (Amendment) Ordinance, 1951.

(2) It shall come into force at once.

2. Amendment of section 10; Act XIV of 1947.—In section 10 of the Industrial Disputes Act, 1947,—

(a) in sub-section (1),—

(i) for the words "If any industrial dispute exists or is apprehended, the appropriate Government may", the words "Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time" shall be substituted;

(ii) in clause (c), after the words "refer the dispute" the words "or any matter appearing to be connected with, or relevant to, the dispute" shall be inserted; and

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(4) Where in an order referring an industrial dispute to a Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Tribunal shall confine its adjudication to those points."

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, by order in writing include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishments."

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on the 28th November, 1951, and is hereby published for general information:—

ACT NO. LXXI OF 1951.

THE ANCIENT AND HISTORICAL MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (DECLARATION OF NATIONAL IMPORTANCE) ACT, 1951.

An act to declare certain ancient and historical monuments and archaeological sites and remains in Part A States and Part B States to be of national importance and to provide for certain matters connected therewith.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951.

2. Declaration of certain monuments and archaeological sites and remains to be of national importance.—The ancient and historical monuments referred to or specified in Part I of the Schedule and the archaeological sites and remains referred to or specified in Part II thereof are hereby declared, respectively, to be ancient and historical monuments and archaeological sites and remains of national importance.

3. Application of Act VII of 1904 to ancient monuments, etc., declared to be of national importance.—All ancient and historical monuments and all archaeological sites and remains declared by this Act to be of national importance shall be deemed to be protected monuments and protected areas, respectively, within the meaning of the Ancient Monuments Preservation Act, 1904, and the provisions of that Act shall apply accordingly to the ancient and historical monuments or archaeological sites and remains, as the case may be, and shall be deemed to have so applied at all relevant times.

THE SCHEDULE.

(See section 2.)

PART I.

Ancient and Historical Monuments.

I. All ancient and historical monuments in Part A States and Part B States which, before the commencement of this Act, have either been declared by the Central Government, to be protected monuments within the meaning of the Ancient Monuments Preservation Act, 1904, or which have been taken possession of by the Central Government as protected monuments.

II. The following ancient and historical monuments in Part B States not covered by Item No. I immediately preceding:—

Serial No.	Name of monument.	Locality.
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HYDERABAD STATE.

District Aurangabad.

1. Ajanta Caves	Ajanta.
2. Aurangabad Caves	Aurangabad.
3. Daulatabad Fort and Monuments therein (e.g., Chand Minar)	Daulatabad.
4. Ellora Caves	Ellora.
5. Pithalkhora Caves	Pithalkhora.
6. Tomb of Aurangzeb	Khuldabad.
7. Tomb of Malik Ambar	Do.
8. Tomb of Rabia Daurani (Bibi-ka-Maqbara)	Aurangabad.

District Bidar.

9. Baihmani Tombs	Ashtur.
10. Barid Shahi Tombs	Bidar City.
11. Bidar Fort	Do.
12. Madrasa Mahmud Gawan	Do.

District Gulbarga.

13. Gulbarga Fort and Great Mosque in the Fort	Gulbarga.
14. Haft Gumbad Tomb of Firoz Shah	Do.

District Hyderabad.

15. Char Minar	Hyderabad City.
16. Golconda Fort and Tombs	Golconda.

District Parbhani.

17. Nagnath Temple	Aundha.
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District Raichur.

18. Alampur Temples	Alampur.
19. Mahadev Temple	Ittagi.

District Warangal.

20. Ramappa Temple	Palampet.
21. Thousand Pillar Temple	Hanamkonda.
22. Warangal Fort, Defences and Gateways	Warangal.

Serial No.	Name of monument.	Locality.
MADHYA BHARAT STATE.		
<i>District Bhilai.</i>		
1. Athakhamba	Gyaraspur.
2. Bajramath	Do.
3. Hindola Torana	Do.
4. Maladevi Temple	Do.
5. Bara Khambi	Udaypur.
6. Pisanarika Temple	Do.
7. Udayeshwar Mahadeva Temple	Do.
8. Bhimaga ja	Pathari.
9. Caves	Do.
10. Bijamandal Mosque	Bhilai.
11. Lohangi Hill Capital	Do.
12. Caves 1 to 20	Udaygiri.
13. Dashavatara Temple	Bedoh.
14. Gadarmal Temple	Do.
15. Jain Temple	Do.
16. Sola Khambi	Do.
17. Khambar Baba (Heliodoras Pillar)	..	Besnagar.
<i>District Bhind.</i>		
18. Brick temples (two)	Kherat.
19. Open Air Museum	Do.
20. Fort	Atar.
<i>District Dewas.</i>		
21. Siddheshwar Temple	Nemawar.
22. Unfinished Temple	Do.
<i>District Dhar.</i>		
23. Adar Gumbaz	Mandu.
24. Alamgir Gate	Do.
25. Ancient Hindu Baodi	Do.
26. Ancient Hindu Well	Do.
27. Andheri Baodi	Do.
28. Ashrafi Mahal	Do.
29. Baz Bahadur's Palace	Do.
30. Bhagwania Gate	Do.
31. Bhangi Gate	Do.
32. Champa Baodi	Do.
33. Chhapan Mahal	Do.
34. Chisti Khan's Mahal	Do.
35. Chor Kot	Do.
36. Chorakot Mosque	Do.
37. Nahar Jharokha Compound	Do.
38. Daisika Mahal	Do.
39. Daike Chhote Behen ka Mahal	Do.
40. Darya Khan's tomb	Do.
41. Delhi Gate	Do.
42. Dharmashahala	Do.
43. Dilawarkhan's Mosque	Do.
44. Ek-khamba Mahal	Do.
45. Gadhosa's Palace	Do.
46. Gadhosa's Shop	Do.
47. Gadi Dharmaja	Do.
48. Hammam	Do.
49. Hathi Gate	Do.
50. Hathi Mahal	Do.
51. Hindola Mahal	Do.
52. Hoshang's tomb	Do.
53. Jahaz Mahal	Do.

Serial No.	Name of monument.	Locality.
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MADHYA BHARAT STATE—contd.

District Dhar—concl'd.

54. Jahangirpur Gate	Mandu.
55. Jama Masjid	Do.
55A. Kali Baodi	Do.
56. Kapoor Talao and the ruins on its banks	Do.
57. Lal Bag	Do.
58. Lal Bungalow	Do.
59. Lohani Caves	Do.
60. Lohani Gate	Do.
61. Jali Mahal	Do.
62. Nahar Jharoka	Do.
63. Mahmud's tomb	Do.
64. Malik Moghi's Mosque	Do.
65. Mosque near Sopi Tanka	Do.
66. Mosque near Tarapur Gate	Do.
67. Mosque north-west of Daryakhan's tomb	Do.
68. Nameless Tomb	Do.
69. Nameless Tomb	Do.
70. Nameless Tomb	Do.
71. Nameless Tomb	Do.
72. Neelkanth	Do.
73. Rampol Gate and the Mosque opposite to it	Do.
74. Royal Palaces	Do.
75. Rupmati Pavilion	Do.
76. Caravan Sarai	Do.
77. Sarai near Daryakhan's Tomb	Do.
78. Sat Kothari Cave	Do.
79. Somoti Kund	Do.
80. Songerh Gate	Do.
81. Tarapur Gate	Do.
82. Teveli Mahal	Do.
83. Tomb and Mosque attached	Do.
84. Tomb north of Almigir Gate	Do.
85. Tomb north of Daryakhan's tomb	Do.
86. Tower of Victory	Do.
87. Tripolia Gate	Do.
88. Ujali Baodi	Do.
89. Water Palace	Do.
90. Bhoja Shala and Kamal Maula's Mosque	Dhar.
91. Letki Masjid	Do.
92. Buddhist Caves 1 to 7	Bagh.
93. Water Palace	Sadalpur.

District Gwalior.

94. Mahadeva Temple	Amrol.
95. Tila Monument	Pawaya.
96. Tomb of Mohammad Ghous	Gwalior.

District Guna.

97. Jain Temples 1 to 5	Budhi Chanderi.
98. Chanderi Fort and : Bada Madarsa	Chanderi.
Battisi Baodi	Do.
Badal Mahal gateway	Do.
Jama Masjid	Do.
Kati Ghati	Do.
Koshak Mahal	Do.
Nizam-ud-din's tomb	Do.
Shahajadi-ka-Roza	Do.

Serial No.	Name of monument.	Locality.							
MADHYA BHARAT STATE—concl.									
<i>District Guna—concl.</i>									
99.	Mohajamata temple ..	..	..	..	Terahi.	
100.	Monastery ..	..	..	..	Do.	
101.	Torana gate ..	..	..	..	Do.	
102.	Monastery ..	..	..	..	Kadwaha.	
103.	Temples 2 to 7 ..	..	..	..	Do.	
<i>District Gwalior.</i>									
104.	Gwalior Fort : Chaturbhuj temple .. Mansingh's Palace .. Rockcut Jain colossi .. Sas Bahu temples .. Teli ka Mandir ..	..	..	..	Gwalior. Do. Do. Do. Do.	
<i>District Khargone.</i>									
105.	Ballaleshwar ..	..	..	..	Un.	
106.	Chaubara Dera ..	..	..	..	Do.	
107.	Gupteshwar ..	..	..	..	Do.	
108.	Jain temples 1 to 3 ..	..	..	..	Do.	
109.	Temples of Mahakaleshwar 1 and 2 ..	..	..	..	Do.	
110.	Temple of Nilakantheshwar ..	..	..	..	Do.	
<i>District Mandasor.</i>									
111.	Brahmanical Rockcut temples ..	..	..	..	Dhamnar.	
112.	Buddhist Caves ..	..	..	..	Do.	
113.	Nau Torana temple ..	..	..	..	Khor.	
114.	Yasodharman's Pillars of Victory ..	..	..	..	Sondni.	
<i>District Morena.</i>									
115.	Ekottarso Mahadeva temple ..	..	..	..	Mitaoli.	
116.	Gadhi ..	..	..	..	Padhavli.	
117.	Kakanmadh temple ..	..	..	..	Suhania.	
118.	Temple ..	..	..	..	Padhavli.	
119.	Temples 1 to 22 ..	..	..	..	Naresar.	
<i>District Sivapuri.</i>									
120.	Large Shiva temple ..	..	..	..	Mahua.	
121.	Small Shiva temple ..	..	..	..	Do.	
122.	Monastery ..	..	..	..	Ranod.	
123.	Monastery ..	..	..	..	Surwaya.	
124.	Open air museum ..	..	..	..	Do.	
125.	Shiva temple ..	..	..	..	Do.	
126.	Surwaya Gadhi ..	..	..	..	Do.	
MYSORE STATE.									
<i>District Bangalore.</i>									
1.	Aprameyawami Temple ..	..	..	..	Malur.	
2.	Ashurkhana ..	..	..	..	Doddaballap.	
3.	Cenotaph ..	..	..	..	Bangalore.	
4.	Old Dungeon Fort and Gates ..	..	..	..	Do.	
5.	Tipu Sultan's Palace ..	..	..	..	Do.	
6.	Fort ..	..	..	..	Devanahalli.	
7.	Tipu Sultan's Birthplace ..	..	..	..	Do.	
8.	Syed Ibrahim's Tomb or Bada Makkan ..	..	..	..	Channapatna	

Serial No.	Name of monument.	Locality.
MYSORE STATE—contd.		
<i>District Chitaldrug.</i>		
9.	Akkatangi temple and Asoka inscription on Emmethamma-nanagundu.	Siddapur.
10.	Asoka inscriptions	Brahmagiri.
11.	Fortress and temples on the hill	Chitaldrug.
12.	Hariharesvara temple	Harihar.
13.	Inscription and Jatingi, Rameswar temple	Jatingi Ramesvara Hill.
14.	Santhebagilu and Rangayyanabagilu with preserved bastions .. .	Chitaldrug.
<i>District Hassan.</i>		
15.	Adinatha Basti	Halebid.
16.	Hoysalesvara temple	Do.
17.	Kedaresvara temple	Do.
18.	Parsvanatha Basti	Do.
19.	Santhiatha Basti	Do.
20.	Akkana Basti	Sravanabelgola.
21.	Chandragupta Basti	Do.
22.	Chavundaraya Basti	Do.
23.	Gomatesvara	Do.
24.	Inscriptions	Do.
25.	Parsvanatha Basti	Do.
26.	Buchesvara temple	Koravangala.
27.	Fort and Dungeons	Manjaraab.
28.	Isvara temple	Arsikere.
29.	Kalyani	Hulikere.
30.	Kesava temple and inscriptions	Belur.
31.	Lakshmidevi temple	Doddagaddavalli.
32.	Lakshminarasimha temple	Nuggehalli.
33.	Sadasiva temple	Do.
34.	Nagesvara and Chennakesava temple	Mosale.
<i>District Kadur.</i>		
35.	Amritesvara temple	Amritapura.
36.	Yupastambha and Isvara temple	Hiremagalur.
37.	Vidyasankara temple	Sringeri.
38.	Viranarayana temple	Belavadi.
<i>District Kolar.</i>		
39.	Bhoganandisvara temple	Nandi Hills.
40.	Tipu's Palace	Do.
41.	Yoganandisvara temple	Do.
42.	Haidar Ali's Birthplace	Budikote.
43.	Kolaramma temple	Kolar.
44.	Mokhbara (Mausoleum of Hyder Ali's father)	Do.
45.	Somesvara temple	Do.
46.	Ramalingevara temples and inscriptions	Avani.
<i>District Mysore.</i>		
47.	Arkesvara temple	Hale Alur.
48.	Gaurisvara temple	Yelandur.
49.	Kesava temple	Somanathapur.
50.	Kirthinarayana temple	Talkad.
51.	Vaidyeesvara temple	Do.
52.	Lakshmikanta temple	Mullur.
53.	Mallikarjuna temple	Baoral.
54.	Ramesvara temple	Narasamangala.
55.	Sidlu Mallikarjuna temple	Bettadapur.
56.	Srikantesvara temple	Nanjangud.
57.	Sri Vijayanarayana temple	Gundlupet.

Serial No.	Name of monument.	Locality.
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MYSORE STATE—concl'd.

District Mandya.

58.	Colonel Bailey's Dungeon	Seringapatam.
59.	Daria Daulat Bagh	Do.
60.	Gumbaz containing tomb of Tipu Sultan	Do.
61.	Jumma Masjid	Do.
62.	Obelisk Monuments and Fort walls near the breach	Do.
63.	Spot where Tipu's body was found	Do.
64.	Sri Kanthirava statue in Narasimha temple	Do.
65.	Sri Ranganathaswami temple	Do.
66.	T. Inman's Dungeon	Do.
67.	Kesava temple	Nagamangala.
68.	Lakshminarasimha temple	Marehalli.
69.	Lakshminarayana temple	Hosaholalu.
70.	Lakshminarayana temple	Sindhaghatta.
71.	Narayanaswami temple	Melkote.
72.	Panchakuta Basti	Kambadahalli.
73.	Panchalingesvara temple	Govindanahalli.
74.	Temples	Tonnur.

District Shimoga.

75.	Aghoresvara temple	Ikkeri.
76.	Anekal temple	Bandalike.
77.	Somesvara temple	Do.
78.	Trimurthinarayana temple	Do.
79.	Bastis and inscriptions	Huncha.
80.	Bherundesvara temple	Belgavi.
81.	Kedaresvara temple	Do.
82.	Tripurantesvara temple	Do.
83.	Devaganga ponds	Basavanasabhyane.
84.	Fort	Chennagiri.
85.	Fort	Kavaledurga.
86.	Fortress and Renuka temple	Chandragutti.
87.	Inscribed pillar	Malavalli.
88.	Inscribed pillar	Talagunda.
89.	Pranavesvara temple	Do.
90.	Jain basti with Brahmadeva Pillar	Melagi.
91.	Kaitabhesvara temple	Kubatur.
92.	Parsvanatha Basti	Do.
93.	Ramesvara temple	Do.
94.	Mallikarjuna and Ramesvara temples	Kadkalsi.
95.	Musafirkhana and Honda	Santhebennur.
96.	Palace site outside Fort	Nagar.
97.	Rameevara temple	Keladi.
98.	Rameevara temple	Kudli.
99.	Shahji's tomb	Hodigere.
100.	Shivappa Naik's fort	Nagar.
101.	Temples and inscriptions	Udri.
102.	Temples and inscriptions	Kuppagadde.

District Tumkur.

103.	Channigaraya temple	Aralaguppe.
104.	Fort	Madhugiri.
105.	Jumma Masjid	Sira.
106.	Mallik Rihan Darga	Do.
107.	Kedaresvara temple	Nagalapura.
108.	Oneninkesava temple	Do.

PATIALA AND EAST PUNJAB STATES UNION.

District Bhatinda.

1.	Bhatinda fort	Bhatinda.
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District Kandahat.

2.	Pinjaur gardens and monuments of Fida Khan	Pinjaur.
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Serial No.	Name of monument.	Locality.
RAJASTHAN STATE.		
<i>District Ahwar.</i>		
1. Gumbad Khan-i-Khana	Alwar.	
2. Siva temple	Do.	
<i>District Banswara.</i>		
3. Neel Kantha Mahadeva's temple	Banswara.	
4. Siva temple and Ruins	Arthuna.	
5. Sun temple	Talwara.	
<i>District Bharatpur.</i>		
6. Akbar's Chhatri	Bayana.	
7. Ancient Fort with its monuments	Do.	
8. Brahmabed Idgah	Do.	
9. Islam Shah's Gate	Do.	
10. Jahangir's Gateway	Do.	
11. Jhajri	Do.	
12. Lodi's Minar	Do.	
13. Saraj Sad-ul-lah	Do.	
14. Usha Mandir	Do.	
15. Chaurasi Khamba temple	Kaman.	
16. Colossal image of Yaksha	Noh.	
17. Deep Bhawans (palace)	Deeg.	
18. Looted Gun	Do.	
19. Marble Jhools	Do.	
20. Delhi Gate	Bharatpur Fort (outside).	
21. Fateh Burj near Anah Gate	Bharatpur.	
22. Jawahar Burj and sahtedhatu gateway	Bharatpur Fort (inside).	
23. Lal Mahal	Rupvas.	
<i>District Bikaner.</i>		
24. Bhandasar Jaina Temple	Bikaner.	
25. Fort Bhatner	Hanumangarh.	
26. Jain temple of Susan Goddess	Morkhena village.	
27. Pallu Jaina sculptures	Bikaner.	
<i>District Bundi.</i>		
28. Wall paintings of Hardoti school in the palace	Bundi.	
<i>District Dholpur.</i>		
29. Jogni Jogna temple	Dholpur.	
30. Sher Garh Fort	Do.	
<i>District Dungarpur.</i>		
31. Jaina temple inscription	Baroda.	
32. Somnath temple	Dev Somnath.	
<i>District Jaipur.</i>		
33. Banjaron ki Chhatri containing two pillars similar to the railing pillars of Bharhut stupa.	Lalsote.	
34. Baori	Abaneri.	
35. Harsh Mata-ka-Mandir	Do.	
36. Beoxies old	Todaraisingh.	
37. Kala Pahar temple	Do.	
38. Kalyanraji's temple	Do.	
39. Laxmi Narayanji's temple	Do.	
40. Pipaji's temple (near dispensary)	Do.	

Serial No.	Name of monument.	Locality.
RAJASTHAN STATE—concl.		
<i>District Jaipur—concl.</i>		
41.	Bisal Deoji's temple	Bisalpur.
42.	Fresco paintings in the Amber Palaces (personal property of the Maharaja).	Ambar.
43.	Harshnath temple	Harshnath—Sikar.
44.	Jama Masjid	Ambar.
45.	Laxmi Narainji's temple	Do.
46.	Sri Jagat Siromani temple	Do.
47.	Sun temple	Do.
48.	Hathi Batha	Kakore.
49.	Inscription in Fort	Nager.
50.	Mand Kila tal inscription	Do.
51.	Yupa pillars in Bichpuria temple	Do.
52.	Inscription	Pawer.
53.	Jain temple	Sawai Madhopur Alanpur.
54.	Persian inscription in a Baori	Do.
55.	Punderikji ki Haveli—Paintings in a room	Brahmpure.
56.	Ranthambhore fort	Ranthambhore.
57.	Temple containing Fresco paintings	Gultaji.
58.	Yupa pillars recovered from mounds	Barnala.
<i>District Jaisalmer.</i>		
59.	Fort including ancient temples	Jaisalmer.
<i>District Jhalawar.</i>		
60.	Buddhist Caves	Hathisgar.
61.	Buddhist Caves, Pillars, Idols	Kolvi (Dag).
62.	Buddhist caves and pillars	Binnysaga (Dag).
63.	Caves of Naranjani, etc.	Do.
64.	Old temples near the Chandrabhaga	Jhalrapatan.
<i>District Jodhpur.</i>		
65.	Fort	Mandore.
<i>District Karauli.</i>		
66.	Wall paintings in the palaces of Mahareja Gopal Lal	Karauli.
<i>District Kotah.</i>		
67.	Old temples, statues and inscriptions	Shergarh.
68.	Siva temple and two unpublished Gupta inscriptions	Charchoma.
69.	Temple (12th century)	Baran.
70.	Temple, fort wall and statues	Dara or Mukundara.
71.	Temple with inscriptions	Kanswa.
72.	Yupa pillars	Badva.
<i>District Udaipur.</i>		
73.	Fort of Chitor as a whole	Chitor.
74.	Fort of Kumbhalgarh as a whole	Kumbhalgarh.
75.	Maha Kal and two other temples	Bijholi.
76.	Rock inscription (12th century)	Do.
77.	Sas Bahu temples	Nagada.

Serial No.	Name of monument.	Locality.
SAURASHTRA STATE.		
1. Ananteshwar temple	.. .. ..	Anandpur.
2. Ashokan Rock	.. .. ..	Junagadh.
3. Caves	.. .. ..	Do.
4. Darbargadh Halvad	.. .. ..	Halvad.
5. Dhank Caves	.. .. ..	Dhank.
6. Gop temple	.. .. ..	Gop.
7. House where Mahatma Gandhi was born and Kirti Mandir	.. .. ..	Porbandar.
8. Inscription in the Harsata Mata temple	.. .. ..	Veraval.
9. Jain Temples	.. .. ..	Talaja.
10. Jama Masjid	.. .. ..	Veraval.
11. Jami Masjid and Rahimat Masjid, Raveli Masjid	.. .. ..	Mangrol.
12. Navlakha temple and step well	.. .. ..	Ghumli.
13. Navlakha temple	.. .. ..	Sejakpur.
14. Neminath temple with 3 inscriptions V.S. 1363, 35, 39	.. .. ..	Mt. Girnar.
15. Nilakantha temple	.. .. ..	Anandpur.
16. Pindara, Durvass Rishi's Ashram and its site	.. .. ..	Pindara.
17. Ra Khengar Mahal (temple)	.. .. ..	Mt. Girnar.
18. Ranak Devi's temple	.. .. ..	Wadhwan.
19. Sun temple	.. .. ..	Than.
20. Surya temple	.. .. ..	Sutrapada.
21. Talaja Caves	.. .. ..	Talaja.
22. Temples—		Shatrunjay Hill.
	Adishwar temple.	
	Balabhai's temple.	
	Bhulavani temple.	
	Chamumukha temple.	
	Dalpet Bhai and Bhagu Bhai's shrine.	
	Keshwaji Nayak temple.	
	Moti Shah's Tuk temple.	
	Nandeshwara Dipa temple.	
	Panch Pandava temple.	
23. Vastupal Temple	.. .. ..	Junagadh.
24. Varaha Mandir	.. .. ..	Kadwar.

TRAVANCORE-COCHIN STATE.

District Trichur.

- Mural Paintings (16-17th Century) on the walls of the Ten-Kailasanatha temple. Trichur.
- Mural Paintings (16-17th Century) on the walls of the Mattancheri Palace. Mattancheri Town.
- Mural Paintings (16-17th Century) on the walls of the Siva Temple. Thiruvanchikulam.
- Mural Paintings (17-18th Century) on the walls of the Srikoil of the Siva Temple at Chemmanthatta. Eyyal.
- Mural Paintings on the walls of the Srikoil of the Pallimanna temple. Vadakkanchery.
- Mural Paintings on the walls of the Sriramaswami temple at Tripayyar. Tripayyar.
- Mural Paintings of the 17th-18th century on the walls of the Srikoils of the Siva Temple at Peruvanam; and wooden bracket images of a still earlier period on the Srikoils of the same shrine. Oorakam.
- Twenty-nine wooden bracket images on the outer walls of the Srikoil of the Vishnu temple at Katevallur and other works of art in the same shrine. Katevallur.

PART II.

Archæological sites and remains.

I. All archæological sites and remains in Part A States and Part B States which, before the commencement of this Act, have either been declared by the Central Government to be protected areas or which have been taken possession of by the Central Government as protected areas.

II. The following archæological sites and remains in Part B States not covered by Item No. I immediately preceding :—

Serial No.	Name of archæological site or remains.	Locality.
HYDERABAD STATE.		
<i>District Aurangabad.</i>		
1. Ancient mound Paithan.
<i>District Gulbarga.</i>		
2. Prehistoric site Evathalli.
3. Prehistoric site Rajankallur.
<i>District Medak.</i>		
4. Ancient mound Kondspur.
<i>District Raichur.</i>		
5. Ancient mound Kopbal.
6. Ancient mound Maaski.
7. Prehistoric site Bonkal..
<i>District Warangal.</i>		
8. Prehistoric site Janampet.
MADHYA BHARAT STATE.		
<i>District Bhilsa.</i>		
1. Ancient site Bemagar.
2. Buddhist stupa Gyaraspur.
3. Ruins of Gupta temple Udaygiri.
<i>District Dhar.</i>		
4. Ruins in Bhoipura Mandu.
5. Ruins on the west of Rewa Kund Do.
<i>District Newar.</i>		
6. Excavated site Kasrawad.
<i>District Gird.</i>		
7. Ancient site Pawaya.
<i>District Ujjain.</i>		
8. Ancient mounds, viz., Bhairon Gadh, Vaishya Tekri, Kumbhkar Ujjain. Tekri.		

Serial No.	Name of archaeological site or remains.	Locality.
MYSORE STATE.		
<i>District Bangalore.</i>		
1. Prehistoric site Chikjala.
2. Ditto Hejjala.
3. Ditto Managondana-halli.
4. Ditto Sevandurga.
<i>District Chitaldrug.</i>		
5. Prehistoric site Brahmagiri.
6. Ditto Chandravalli.
<i>District Kolar.</i>		
7. Prehistoric site Hunkunda.
<i>District Mysore.</i>		
8. Prehistoric site Kittur.
RAJASTHAN STATE.		
<i>District Alwar.</i>		
1. Ancient remains Pandrupol.
2. Ancient site Bhangadh.
<i>District Banswara.</i>		
3. Ancient remains Vithal Deva.
<i>District Bharatpur.</i>		
4. Ancient Mound Malah.
5. Ditto Noh.
<i>District Bikaner.</i>		
6. Ancient mounds ..	In the neighbourhood of Suratgarh town	Badopal.
7. Ditto ..		Bhadrakali.
8. Ditto ..		Bhahnar Theri.
9. Ditto ..		Dhokal.
10. Ditto ..		Manak.
11. Ditto ..		Munda.
12. Ditto ..		Peer Sultan.
13. Ditto ..		Rang Mahal.
14. Ancient mounds (3)		Kalibanga.
15. Ancient mound ..		Pilibanga.
16. Ancient mound ..		Baror (Anupgarh Tahsil).
17. Ancient mounds (2)		Binjor (Anupgarh Tahsil).
18. Ancient mound ..		Chak 86 (Do.)
19. Ancient mounds (2)		Mathula (Do.)
20. Ancient mound ..		Tarkhanewala-Dera (Do.)
<i>District Bundi.</i>		
21. Ancient mounds	Nainwa, Lakheri and Keshwarai Patan.

Serial No.	Name of archaeological site or remains.	Locality.
RAJASTHAN STATE—concl.		
<i>District Jaipur.</i>		
22. Ancient mound	Abaneri.
23. Ditto	Bundwali-Doongri.
24. Ditto	Gariagarh (Newai).
25. Ditto	Maheshra.
26. Ditto	Nagar.
27. Ditto	Raniwas.
28. Ditto	Sikrai.
29. Devapura Barodia mounds	Jhalai.
30. Excavated site	Nagar.
31. Ditto	Rairh (Newai).
32. Excavated sites	Bairat and Sambhar.
<i>District Jaisalmer.</i>		
33. Ancient site	Lodruva Patan.
<i>District Jhalawar.</i>		
34. Ancient ruins	Dalsagar
		Ganga Dhar.
35. Ditto	Dudhaliya (Dag).
<i>District Kotah.</i>		
36. Ancient ruins and structural remains	Krishnavilas.
37. Ruins of temples	Artu or Ganesh Ganj.
<i>District Udaipur.</i>		
38. Ancient ruins	Kalyanpur.
39. Ditto	Nagari.
40. Ditto	Badoli.
SAURASHTRA STATE.		
1. Ancient mound	Darbargadh Shihor.
2. Ditto	Intwa.
3. Ditto	Rangpur.
4. Ditto	Sejakpur.
5. Ditto	Valabhipur.
TRAVANCORE-COCHIN STATE.		
1. Ariyannur Umbrellas. A prehistoric site consisting of seven or more Kudakals or umbrella stones.	Ariyannur.
2. Burial cave of Chovannur	Choveanur.
3. Burial caves of Eyyal	Eyyal.
4. Burial cave of Kandanasseri	Kandanasseri.
5. Burial cave of Kattakampal	Kattakampal.
6. Burial cave of Kakkad	Kunnamkulam.
7. Kudakallu Parambu. A prehistoric site consisting of 50 to 60 Kudakals or umbrella monuments.	Cheramanagad.

K. V. K. SUNDARAM, Secy

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সাম্রাজ্য পত্রিকা

THURSDAY, JANUARY 10, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

ORDINANCE NO. X OF 1951.

THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ORDINANCE, 1951.

An Ordinance further to amend the Foreign Exchange Regulation Act, 1947.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Foreign Exchange Regulation (Amendment) Ordinance, 1951.

(2) It shall come into force at once.

2. **Amendment of section 2, Act VII of 1947.**—In section 2 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the principal Act), clause (o) shall be omitted.

3. **Amendment of section 8, Act VII of 1947.**—In section 8 of the principal Act, sub-section (3) shall be omitted.

4. **Amendment of section 12, Act VII of 1947.**—In sub-section (1) of section 12 of the principal Act, for the words “prohibit the export” the words “prohibit the taking or sending out by land, sea or air (hereafter in this section referred to as export)” shall be substituted.

5. **Substitution of new section for section 18 in Act VII of 1947.**—For section 18 of the principal Act, the following section shall be substituted, namely:—

“18. **Certain provisions as to companies.**—(1) Where there is served on any person resident in the States a notice in writing that the Central Government or the Reserve Bank wishes to regulate the requirements as are hereinafter mentioned to be complied with by any such company as is specified in *Explanation* [hereunder]



in this sub-section and in sub-section (2) referred to as a foreign company] and that person can by doing or refraining from doing any act—

- (a) cause the foreign company to comply with any of the requirements, or
- (b) remove any obstacle to the foreign company complying with any of the requirements, or
- (c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Central Government or, as the case may be, by the Reserve Bank, that person shall do or, as the case may be, refrain from doing that act.

(2) The requirements with respect to which a notice under sub-section (1) may be given are as follows, that is to say, the foreign company shall—

- (i) furnish to the Central Government or, as the case may be, to the Reserve Bank such particulars as to its assets and business as may be mentioned in the notice;
- (ii) sell or procure the sale to an authorised dealer of any foreign exchange mentioned in the notice, being foreign exchange which it is entitled to sell or of which it is entitled to procure the sale;
- (iii) declare and pay such dividend as may be mentioned in the notice;
- (iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned;
- (r) refrain from selling or transferring or doing anything which affects its rights or powers in relation to any such instruments or securities as may be mentioned in the notice.

(3) Except with the general or special permission of the Reserve Bank, no person resident in the States shall do any act whereby a company which is controlled by persons resident in India ceases to be so controlled.

(4) Except with the general or special permission of the Reserve Bank, no person resident in the States shall lend any money either to any company (other than a banking company) which is controlled directly or indirectly by persons resident outside India elsewhere than in the territories notified in this behalf by the Reserve Bank or to any such person.

Explanation 1.—The companies referred to in sub-section (1) are companies not incorporated under any law in force in the States in the case of which any of the following conditions is fulfilled :—

- (a) that the company is by any means controlled (directly or indirectly by persons resident in the States; or
- (b) that more than one-half of the sums which, on a liquidation thereof would be receivable by holders of share or loan capital, would be receivable directly or indirectly by, or for the benefit of persons resident in the States; or
- (c) that more than one-half of the assets which, on a liquidation thereof would be available for distribution after the payment of creditors

would be receivable directly or indirectly by, or for the benefit of, persons resident in the States; or

(d) that more than one-half—

(i) of the interest payable on its loans and loan capital, if any, or
 (ii) of the dividends payable on its preference share capital, if any, or

(iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable directly or indirectly by, or for the benefit of, persons resident in the States.

Explanation II.—Where the identity of the persons by whom, or for whose benefit, any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by any person resident in the States of a power vested in him in that behalf, the sum, assets, interest or dividends shall, for the purposes of this sub-section, be deemed to be receivable directly or indirectly by, or for the benefit of, persons resident in the States.”

6. Amendment of section 19, Act VII of 1947.—For sub-section (2) of section 19 of the principal Act, the following sub-section shall be substituted, namely :—

“(2) Where for the purposes of this Act the Central Government or the Reserve Bank considers it necessary, or expedient to obtain and examine any information, book or other document in the possession of any person or which in the opinion of the Central Government or the Reserve Bank it is possible for such person to obtain and furnish, the Central Government or, as the case may be, the Reserve Bank may, by order in writing, require any such person (whose name shall be specified in the order) to furnish it or any person specified in the order with such information, book or other document.”

7. Amendment of section 23, Act VII of 1947.—In sub-section (3) of section 23 of the principal Act, after the words “or the Reserve Bank” the words “by a general or special order” shall be inserted.

8. Insertion of new sections 23A and 23B in Act VII of 1947.—After section 23 of the principal Act, the following sections shall be inserted, namely :—

“23A. Application of Sea Customs Act, 1878.—Without prejudice to the provisions of section 23 or to any other provision contained in this Act, the restrictions imposed by sub-sections (1) and (2) of section 8, sub-section (1) of section 12 and clause (a) of sub-section (1) of section 13 shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878 (VIII of 1878), and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word ‘shall’ therein the word ‘may’ were substituted.

23B. Attempts.—Whoever attempts to contravene any of the provisions of this Act or of any rule, direction or order made thereunder shall be deemed to have contravened that provision, rule, direction or order, as the case may be.”

9. Amendment of section 24, Act VII of 1947.—Section 24 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Where any person is prosecuted for contravening the provisions of sub-section (3) of section 4, the burden of proving that the foreign exchange acquired by such person has been used for the purpose for which permission to acquire it was granted shall be on him.”

10. Insertion of new section 24A in Act VII of 1947.—After section 24 of the principal Act, the following section shall be inserted, namely:—

“24A. *Presumption as to documents in certain cases.*—Where any document is furnished by any person under sub-section (2) of section 19, or has been seized under sub-section (3) of that section, and such document is tendered by the prosecution in evidence against him, the court shall, unless the contrary is proved by any such person, presume—

- (a) the truth of the contents of such document;
- (b) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.”

RAJENDRA PRASAD,
President.

—
K. V. K. SUNDARAM, Secy.

registered No. C207

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लोक सभा वर्तमान

THURSDAY, JANUARY 24, 1952

ART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

ORDINANCE NO. I OF 1952.

THE COAL MINES (CONSERVATION AND SAFETY) ORDINANCE,
1952.

An Ordinance to provide for the conservation of coal and make further provision for safety in coal mines.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Coal Mines (Conservation and Safety) Ordinance, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. Declaration as to expediency of control by Central Government.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of coal mines to the extent hereinafter provided.

3. Definitions.—In this Ordinance, unless the context otherwise requires—

(a) "Board" means the Coal Board established under section 4;

(b) "blending" means the process of intimately mixing different varieties of coal so as to provide a mixture which on carbonisation results in coke, which, in the opinion of the Board is suitable for being used in metallurgical industries, particularly in iron and steel industries;

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- (c) "coal" includes coke in all its forms;
 - (d) "coking coal" means such type of coal from which on carbonisation coke suitable, in the opinion of the Board, for being used in metallurgical industries, particularly in iron and steel industries, can be prepared;
 - (e) "Chief Inspector" and "Inspector" mean the persons respectively appointed as the Chief Inspector of Mines and Inspector of Mines under sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923), and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising their powers under this Ordinance or the rules made thereunder;
 - (f) "Fund" means the Coal Mines Safety and Conservation Fund constituted under section 12;
 - (g) "India" means the territory of India excluding the State of Jammu and Kashmir;
 - (h) "prescribed" means prescribed by rules made under this Ordinance;
 - (i) "soft coke" means all coke which is unsuitable for being used in metallurgical industries, and "hard coke" means all coke which is not soft coke;
 - (j) "stowing" means the operation of filling with sand or any other material or with both spaces left under-ground in a coal mine by the extraction of coal;
 - (k) "washing" means such a process or a combination of processes as may be approved in this behalf by the Board by which the whole or any part of the shale and mineral matter found in the coal is removed therefrom.
 - (l) "agent", "mine" and "owner" have the meanings respectively assigned to them in section 3 of the Indian Mines Act, 1923 (IV of 1923).

4. Establishment of the Board.—(1) As from the commencement of this Ordinance, there shall be established a Board, to be called the Coal Board, and such Board shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The Board shall consist of a Chairman and such number of other members, not exceeding four, as the Central Government may think fit to appoint and the members (including the Chairman) shall hold office during the pleasure of the Central Government:

Provided that the Chairman or any other member of the Board may resign his office by giving notice in writing to the Central Government and shall, on such resignation being accepted by that Government, be deemed to have vacated his office.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members (including the Chairman) or any defect in the constitution thereof.

5. Functions of the Board.—(1) The Board may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and discharge such duties as may be assigned to it by or under this Ordinance.

(2) The Central Government may, by general or special order, delegate to the Board, subject to such conditions and limitations (if any) as may be specified in the order, such of its powers and duties under this Ordinance or under any other law for the time being in force as it may deem necessary for effectively dealing with problems relating to safety in coal mines or conservation of coal and matters connected therewith or incidental thereto.

6. Powers of the Board in executing operations.—(1) If in the opinion of the Board, it is necessary or desirable that any measures, including stowing, required in furtherance of the objects of this Ordinance should be undertaken directly by the Board, the Board may execute or cause to be executed such measures under its own supervision.

(2) For the purposes of this section, the Board shall have the right for itself and all persons employed in the execution of any work undertaken under this section to enter upon any property in which the work has to be done, and to do therein all things necessary for the execution of the work.

(3) No person shall obstruct or interfere with the execution of any work undertaken under this section and no person shall remove or tamper with any plant or machinery or any stowing or other materials used in the execution of such work.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

7. Powers of Central Government in respect of safety in coal mines and conservation of coal.—(1) The Central Government may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and take or cause to be taken all such measures as it may deem necessary or proper or as may be prescribed.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such measures as it may think necessary for the purpose of maintenance of safety in coal mines or for conservation of coal, including—

- (a) in any coal mine, stowing for safety; or
- (b) without prejudice to any order under clause (a), in the case of any coal mine producing coking coal or producing coal which on beneficiation is likely to yield coking coal or producing coal suitable for blending, stowing for conservation; or
- (c) washing of coal with a view to beneficiating and reducing the ash contents of coal and improving its coking qualities.

8. Imposition of excise duties.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected—

- (a) on all coal raised and despatched, and on all coke manufactured and despatched, from the collieries in India, such duty of excise not exceeding one rupee per ton as may be fixed from time to time by the Central Government by notification in the Official Gazette, and different rates of duty may be levied on different grades or descriptions of coal or coke:

Provided that the Central Government may, by general or special order, exempt any special grade or grades or description of coal or coke from the levy of such duty of excise;

(b) on all coking coal raised and despatched from the collieries in India, such additional duty of excise not exceeding five rupees per ton in the case of coal of Selected Grade A or Selected Grade B, and not exceeding two rupees per ton in the case of coal of Grade I, as may be fixed from time to time by the Central Government by notification in the Official Gazette.

Explanation.—Coal of Selected Grade A, Selected Grade B and Grade I means coal graded as such under the Colliery Control Order, 1945.

(2) Where coking coal, in respect of which an additional duty of excise has been levied and collected under clause (b) of sub-section (1), is despatched to any person for use in India and—

(a) the use of coking coal is, in the opinion of the Central Government, essential for carrying on any industrial or other process in which such person is engaged; or

(b) the despatch of the coking coal is made under the orders of the Board, although it was not specifically indented for by such person;

then, the Central Government shall cause to be paid to that person a sum equivalent to the additional duty of excise so collected on the coking coal received and used by that person.

9. Imposition of customs duty.—During the period in which any duty of excise is being levied under section 8, the Central Government may, by notification in the Official Gazette, impose on all coal (including soft and hard coke) imported or brought into India from any place outside India a duty of customs (which shall be in addition to any duty of customs for the time being leviable under any other law), at rates equivalent to the rates of duties of excise levied under section 8.

10. Collection of excise duties.—The duties of excise levied under section 8 shall be collected by such agencies and in such manner as may be prescribed.

11. Payment to the Coal Board of a sum equal to net proceeds of excise duties.—The Central Government may, in each financial year, pay to the Board a sum equivalent to the net proceeds (determined in such manner as may be prescribed) of the duties of excise collected under section 8 during the preceding financial year.

12. Money received by the Board to be credited to the Fund.—(1) The sum referred to in section 11 and any other money received by the Board shall be credited to a Fund to be called the Coal Mines Safety and Conservation Fund which shall be applied by the Board, in such manner and subject to such conditions as may be prescribed, to—

(a) meeting the expenses in connection with the administration of the Board and the furtherance of the objects of this Ordinance;

(b) the grant of stowing materials and other assistance for stowing operations to the owners, agents or managers of coal mines;

- (c) the execution of stowing and other operations in furtherance of the objects of this Ordinance;
- (d) the prosecution of research work connected with safety in coal mines or conservation and utilisation of coal;
- (e) meeting the cost of administering the Fund and the expenses in connection with Advisory Committees;
- (f) the grant to State Governments, research organisations, local authorities and owners, agents or managers of coal mines of money in aid of any scheme approved by the Central Government in furtherance of the objects of this Ordinance;
- (g) any other expenditure which the Central Government directs to be defrayed out of the Fund.

(2) The Board shall keep accounts of the Fund, and such accounts shall be examined and audited at prescribed intervals by the auditors appointed in this behalf by the Central Government.

13. Powers of Inspectors.—(1) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Ordinance or of any rules and orders made thereunder are being complied with.

(2) The Chief Inspector or any Inspector may, with such assistants, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in respect of which assistance is being, or has been, given under this Ordinance, in order to ascertain the amount of sand or other materials used in stowing in the mine or to ensure that stowing or any other operation towards which assistance may be granted under this Ordinance, has been, or is being, done effectively:

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine.

(3) Without prejudice to the provisions of section 19 of the Indian Mines Act, 1923 (IV of 1923), the Chief Inspector or any Inspector may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

(a) the extraction or reduction of pillars in any part of the mine is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger human life or the mine, or

(b) adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of any part of the mine or for restricting the area that might be affected by fire or flooding, as the case may be.

(4) The powers conferred on the Inspector under sub-sections (1), (2) and (3) may also be exercised by such officers of the Board suitably qualified in this behalf as the Central Government may, by notification in the Official Gazette, specify in this behalf.

14. Application of Act IV of 1923.—The provisions of sub-sections (3) to (6) (both inclusive) of section 19 of the Indian Mines Act, 1923 (IV of 1923), shall apply to an order made under sub-section (3) of section 13 of this Ordinance as they apply to an order made under sub-section (2) of section 19 of that Act, and all the provisions of the Indian Mines Act, 1923 [except sub-section (1) of section 11 thereof], affecting committees appointed for the purposes of that Act or relating to the disposal of references made to such committees, shall apply, so far as may be, to a committee appointed to enquire into a reference under this Ordinance and to the disposal of such reference:

Provided that the power conferred by the proviso to sub-section (6) of the said section 19 to suspend the operation of a requisition under sub-section (1) of that section shall include a power similarly to suspend the operation of an order made under sub-section (3) of section 13 of this Ordinance.

15. Advisory Committees.—(1) The Central Government may, by notification in the Official Gazette, constitute one or more Advisory Committees consisting of such number of persons and on such terms and conditions as may be prescribed.

(2) It shall be the duty of the Advisory Committees to advise the Central Government or the Board in regard to any matter connected with the administration of the Ordinance in respect of which their advice is sought by the Central Government, or, as the case may be, by the Board.

16. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Chairman or any other member of the Board or any officer thereof or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or orders made thereunder.

17. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the measures to be taken for the purpose of maintenance of safety in coal mines or for the conservation of coal;
- (b) the levy, collection and payment of the duties of excise and the imposition, collection and payment of the duty of customs;
- (c) the appointment and terms and conditions of service of the Chairman and other members of the Board;
- (d) the powers and functions of, and the conduct of business by, the Board;
- (e) the determination of the net proceeds of the duties of excise for the purposes of section 11;
- (f) the manner in which, and the conditions subject to which, sums at the credit of the Coal Mines Safety and Conservation Fund may be applied;

- (g) the form in which the accounts of the Fund shall be kept, the intervals within which, and the manner in which, such accounts may be audited;
- (h) the composition of any committee of inquiry which may be appointed to inquire into a reference arising out of an order passed under sub-section (3) of section 13, the technical qualifications to be possessed by persons nominated thereto, and the powers and duties of such committee;
- (i) the composition of Advisory Committees, their functions, and the terms and conditions of service of members thereof;
- (j) any other matter which has to be, or may be, prescribed.

(3) Any rule made under the provisions of this Ordinance may provide that the contravention thereof shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) All rules made under the provisions of this Ordinance shall be laid, as soon as may be, before Parliament.

18. Ordinance to apply to Government coal mines.—This Ordinance applies also to coal mines belonging to the Government.

19. Repeal.—(1) The Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939), is hereby repealed.

(2) Notwithstanding such repeal, any thing done or any action taken (including any rules, notifications or orders made or issued) in the exercise of any power conferred by or under the said Act shall be deemed to have been done or taken under this Ordinance as if this Ordinance were in force on that day.

(3) As from the commencement of this Ordinance, all the moneys lying to the credit of the Coal Mines Stowing Fund under the Act hereby repealed shall be deemed to have been transferred to, and to vest in, the Board and to form part of the Coal Mines Safety and Conservation Fund.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy.

Registered No. C207

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THURSDAY, FEBRUARY 7, 1952.

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

ORDINANCE NO. II OF 1952.

THE UTTAR PRADESH CANTONMENTS (CONTROL OF RENT AND EVICTION) ORDINANCE, 1952.

An Ordinance to provide for the control of rent of house accommodation in cantonments in Uttar Pradesh and to prevent the eviction of tenants therefrom.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Uttar Pradesh Cantonments (Control of Rent and Eviction) Ordinance, 1952.

(2) It extends to all the cantonments in the State of Uttar Pradesh.

(3) It shall come into force at once.

2. Ordinance not to apply to certain accommodation.—Nothing contained in this Ordinance shall apply to—

(a) any premises belonging to the Government;

(b) any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; or

(c) any house which is, or may hereafter be, appropriated by the Central Government on lease under the Cantonments (House-Accommodation) Act, 1923 (VI of 1923).

3. Definitions.—In this Ordinance, unless the context otherwise requires,—

- (a) “accommodation” means house accommodation in any cantonment to which this Ordinance applies, and includes—
 - (i) the gardens, grounds or outhouses, if any, appurtenant to the house or any part thereof;
 - (ii) any furniture supplied by the landlord for use in the house or any part thereof;
 - (iii) any fittings affixed to the house or any part of the house for the more beneficial enjoyment thereof;
- (b) “district magistrate” includes an officer authorised by a district magistrate to perform any of his functions under this Ordinance;
- (c) “landlord” means a person to whom rent is payable by a tenant in respect of any accommodation, and includes—
 - (i) the agent, attorney, heir or assignee of the landlord, and
 - (ii) a tenant in relation to a sub-tenant;
- (d) “lease” includes a sub-lease;
- (e) “municipal assessment” means—
 - (i) in respect of accommodation which was assessed by a cantonment board on or before the 1st day of April, 1942, the annual rental value so assessed and in force on the said date, and
 - (ii) in respect of accommodation which was assessed by a cantonment board after the said date, the annual rental value first assessed after the said date;
- (f) “officer commanding the station” means the military officer for the time being in command of the forces in a cantonment or, if that officer is the Officer Commanding the Area or Officer Commanding-in-Chief, the Command, the military officer who would be in command of those forces in the absence of the Officer Commanding the Area and Officer Commanding-in-Chief, the Command;
- (g) “reasonable annual rent” means—
 - (I) in the case of accommodation constructed before the 1st day of October, 1946,—
 - (i) if it is separately assessed to municipal assessment, its municipal assessment plus twenty-five per cent. thereon;
 - (ii) if it is a part only of the accommodation so assessed, the proportionate amount of the municipal assessment of such accommodation plus twenty-five per cent. thereon;
 - (iii) if it is not assessed to municipal assessment—
 - (a) if it was held by a tenant on rent between the 1st day of April, 1942 and the 30th day of September, 1946, fifteen times the rent for the one month nearest to and after the 1st day of April, 1942; and
 - (b) if it was not so held on rent, the amount determined under section 7; and

- (2) in the case of accommodation constructed on or after the 1st day of October, 1946, the rent determined in accordance with section 7;
- (h) "tenant" means the person by whom rent is, or, but for a contract express or implied, would be, payable for any accommodation, and includes any person holding or occupying the accommodation as a sub-tenant.

4. Control of rent.—(1) Except as hereafter in this section provided, the rent payable for any accommodation shall be such as may be agreed upon between the landlord and the tenant.

(2) Where the rent for any accommodation has not been agreed upon, or where in the case of tenancies continuing from any date before the 1st day of October, 1946, the landlord wishes to enhance the rent agreed upon, he may, by notice in writing, fix the annual rent at, or enhance it to an amount not exceeding, the reasonable annual rent:

Provided that the enhanced rent shall not exceed the rent, if any, payable on the 1st day of October, 1946, by more than fifty per cent. thereof:

Provided further that nothing in this section shall entitle the landlord to enhance the rent in the case of leases for a fixed term during the continuance of the term unless so permitted by the contract of tenancy.

(3) If any accommodation is let after the commencement of this Ordinance without the rent being agreed upon between the landlord and the tenant, the rent fixed under sub-section (2) shall be payable from the date of commencement of the tenancy and where the rent agreed upon is enhanced under the said sub-section, the enhanced rent shall be payable from the first day of the month next after the month in which the notice is given.

(4) If the landlord claims that the reasonable annual rent of any accommodation is inadequate, or if the tenant claims that the reasonable annual rent is excessive or that the agreed rent is higher than the reasonable annual rent, he may institute a suit for fixation of rent in the court of the munsiff having territorial jurisdiction if the annual rent claimed or payable is five hundred rupees or less, and if it exceeds five hundred rupees, in the court of the civil judge having territorial jurisdiction or, if there is no such civil judge, in the court of the district judge:

Provided that the court shall not vary the agreed rent unless it is satisfied that the transaction was unfair and, in the case of a lease for a fixed term made before the 1st day of April, 1942, that the term has expired.

(5) Notwithstanding anything contained in sub-sections (1), (2) and (3), the rent fixed by the court under sub-section (4) shall, so long as this Ordinance remains in force, be payable by the tenant and from such date as the court may direct.

Explanation.—For the purposes of this section, "accommodation" includes any accommodation let on a monthly basis.

5. Procedure in suits under section 4.—In determining the amount of annual or monthly rent in any suit under sub-section (4) of section 4, the court shall take into account—

- (a) in the case of accommodation constructed before the 1st day of October, 1946, the pre-war rent, the reasonable annual or monthly rent, the prevailing rent on the date of the suit for similar

accommodation in the locality, the cost of maintenance of, and repairs to, such accommodation, and any other material circumstances provided by the plaintiff or the defendant;

- (b) in the case of accommodation constructed on or after the said date, the cost of construction and maintenance of, and repairs to, the accommodation, its situation and any other circumstances which the court may consider material.

6. Bar of appeals from decrees or orders in suits under section 4.—No appeal shall lie from any decree or order of the munsiff, the civil judge or the district judge, as the case may be, in a suit brought under sub-section (4) of section 4:

Provided that the decree or order so passed (except in so far as it relates to the amount of rent) shall not operate as *res judicata* between the parties or their representatives in interest in any suit or proceeding under any other law.

7. Determination of reasonable annual rent in certain cases.—(1) In the case of any accommodation constructed after the 30th day of September, 1946, or falling within item (b) of sub-clause (I)(iii) of clause (g) of section 3, the district magistrate may, on the application of the landlord or the tenant, determine the reasonable annual rent thereof.

(2) In determining the reasonable annual rent under sub-section (1) the district magistrate shall take into account—

- (a) in the case of accommodation constructed after the 30th day of September, 1946, the cost of construction and maintenance of, and repairs to, the accommodation, its situation and any other matter which in the opinion of the district magistrate is material, and

- (b) in the case of accommodation falling within item (b) of sub-clause (I)(iii) of clause (g) of section 3, the matters set out in clause (a) of section 5.

(3) Subject to the result of any suit filed under sub-section (4) of section 4, the amount fixed by the district magistrate under this section shall be the reasonable annual rent of the accommodation.

8. Unlawful charges not to be claimed or received.—(1) Subject to the provisions of this Ordinance, no person shall be entitled to claim or to receive any rent in excess of the rent payable under this Ordinance notwithstanding any agreement to the contrary.

(2) No person shall, in consideration of the grant, continuance or renewal of any tenancy, claim or receive any premium or other like sum in addition to the rent payable under this Ordinance.

9. Control of letting.—(1) The officer commanding the station may, by general or special order, require a landlord to give intimation that any accommodation of which he is the landlord has fallen vacant and to let or not to let such accommodation to any person.

(2) Every tenant occupying accommodation shall, within seven days of his vacating such accommodation, give intimation thereof in writing to the officer commanding the station.

(3) The officer commanding the station may, on application being made to him by the landlord require a prospective tenant of any accommodation in respect of which an order has been made under this section to pay to the landlord an advance of rent equal—

- (a) to one month's rent, where the accommodation is to be let on a monthly basis, and
- (b) to one-half of the yearly rent where the accommodation is to be let on a yearly basis.

(4) In respect of any accommodation constructed after the 1st day of October, 1946, in respect of which he has to pass an order under this section, the officer commanding the station shall allot it to the owner if the owner, not being in occupation of any other house owned by him in the cantonment, genuinely requires such accommodation for his own residence.

Explanation I.—Any accommodation newly constructed shall be deemed to be vacant as soon as it is fit for occupation.

Explanation II.—For the purposes of this section “letting” includes sub-letting.

10. Eviction of persons occupying accommodation in contravention of section 9.—(1) Where in pursuance of an order of the officer commanding the station under sub-section (1) of section 9 the vacancy of any accommodation is required to be reported and is not so reported, or where an order requiring any accommodation to be let or not to be let has been duly passed under that sub-section and the officer commanding the station believes, or has reason to believe, that any person has, in contravention of such order, occupied the accommodation or any part thereof, he may call upon the person in occupation to show cause, within such time as may be fixed by him, why he should not be evicted therefrom:

Provided that no order under this section shall be made if the officer commanding the station is of opinion that due to lapse of time or other causes it is inexpedient to do so.

(2) If such person fails to appear in reply to the notice served under sub-section (1) or, if he appears but fails to satisfy the officer commanding the station that the order under sub-section (1) of section 9 was not duly passed and that he is entitled to remain in occupation of the accommodation, the officer commanding the station may, without prejudice to any other action which may be taken against him under this Ordinance or any other law for the time being in force, direct him to vacate the premises within such period as he may specify.

(3) Upon the making of an order under sub-section (2), the person against whom the order is made and any other person claiming under him shall vacate the accommodation and if the person does not vacate the accommodation within the time allowed or such extended period as the officer commanding the station may, on cause shown, allow, the officer commanding the station may evict, or cause to be evicted, the person or persons concerned and may use such force as may be necessary for carrying out the order and also put the person entitled under sub-section (1) of section 9 in occupation of the accommodation.

(4) No appeal shall lie from any order passed by the officer commanding the station under this section, but the Central Government or any person authorised by it in this behalf may revise the said order if it is satisfied that the officer commanding the station has acted illegally or with material irregularity or has wrongly refused to act, and may make such order in relation thereto as it thinks fit.

11. Eviction of tenants occupying accommodation under section 9.—

(1) Where any tenant who is in occupation of any accommodation in pursuance of an order made under sub-section (1) of section 9 is in arrears of rent for more than three months, the landlord may make an application to the munsiff having territorial jurisdiction for an order of eviction of the tenant from the accommodation.

(2) Every application under sub-section (1) shall contain the following particulars, namely:—

- (a) the name of the landlord and, where there are more landlords than one, the names of all the landlords;
- (b) a sufficient description of the accommodation from which the tenant is to be evicted or a copy of the order of allotment;
- (c) the arrears claimed and the rate at which they are claimed;
- (d) where the rent has already been determined in a suit under sub-section (4) of section 4, the fact that it has been so determined;

and shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, 1908 (Act V of 1908).

(3) On the making of an application under sub-section (1), the munsiff shall, without unnecessary delay, cause a notice to be served on the tenant in the manner prescribed by rules under this Ordinance requiring him to pay the amount of arrears within fifteen days of the service thereof or to show cause within the said period why an order evicting him from the accommodation be not passed against him.

(4) If within the time allowed in the notice under sub-section (3) the tenant pays into court the amount mentioned therein, the munsiff shall dismiss the application and direct the amount to be deposited to be paid to the landlord in satisfaction of the arrears and shall make such order as to costs as may appear to him to be just and proper.

(5) Where the tenant has been duly served with a notice under sub-section (3) but fails to deposit the amount mentioned within the time allowed therein and does not file any objection thereto, the munsiff shall, notwithstanding anything to the contrary contained in the Transfer of Property Act, 1882 (IV of 1882), make an order directing that the tenant be evicted from the accommodation and that he shall pay the costs of the application.

(6) As soon as may be after an order has been passed under sub-section (5) the munsiff shall forward a copy of the same to the district magistrate and thereupon the district magistrate shall cause the tenant to be evicted from the accommodation, using or causing to be used such force as may be necessary for the purpose, and nothing contained in the Code of Civil Procedure, 1908 (Act V of 1908), shall apply to any such proceedings:

Provided that if the tenant at any time before his eviction deposits the amount due in the treasury or pays the landlord or the officer charged with the execution of the order for the delivery of possession the amount of arrears together with all the costs of the proceeding, the tenant shall not be evicted from the accommodation and the district magistrate shall report the proceedings to the munsiff who shall make an order quashing the proceedings:

Provided further that the district magistrate may, for sufficient reasons, allow such time as he may think fit to the tenant to pay the amount for which an order of eviction has been passed against him.

(7) Any order made under sub-section (5) or anything done or any action taken under sub-section (6) shall not be deemed in any way to affect the question of title to the property to which it relates.

12. Proceedings under section 11 may be converted into suits in certain cases.—(1) Where a tenant appears in reply to a notice under sub-section (3) of section 11 and files an objection, other than an objection as to the costs of the proceedings merely, the munsiff shall inform the applicant that he may, subject to the payment within such time as may be specified of the court-fee in respect thereof, have the application treated as a plaint in a suit for the recovery of arrears of rent alone:

Provided that the tenant shall not be permitted to file any objection unless he deposits in court the amount mentioned in the notice.

(2) If the applicant pays the necessary court-fee within the time allowed, the application shall be treated as a plaint and the proceedings as a suit and disposed of accordingly, but if no court-fee is so deposited the proceedings shall be quashed, without prejudice to the right of the applicant to file, subject to any other law for the time being in force, a separate suit for ejectment and recovery of arrears.

13. Special costs for frivolous or vexatious applications or objections.—Whenever the munsiff finds that an application by the landlord under section 11 or any objection filed by the tenant under section 12 is frivolous or vexatious, he shall award, by way of special costs, to the tenant or the landlord, as the case may be, such sum not exceeding the amount of the claim as he may think fit.

14. Restrictions on eviction.—No suit shall, without the permission of the district magistrate, be filed in any civil court against a tenant for his eviction from any accommodation except on one or more of the following grounds, namely:—

- (a) that the tenant has wilfully failed to make payment to the landlord of any arrears of rent within one month of the service upon him of a notice of demand from the landlord;
- (b) that the tenant has wilfully caused or permitted to be caused substantial damage to the accommodation;
- (c) that the tenant has, without the permission of the landlord, made or permitted to be made any such construction as in the opinion of the court has materially altered the accommodation or is likely substantially to diminish its value;
- (d) that the tenant has created a nuisance or has done any act which is inconsistent with the purpose for which he was admitted to the tenancy of the accommodation or which is likely to affect adversely and substantially the landlord's interest therein;
- (e) that the tenant has sub-let the whole or any portion of the accommodation without the permission of the landlord;
- (f) that the tenant has renounced his character as such or has denied the title of the landlord and the latter has not waived his right or condoned the conduct of the tenant.

Explanation.—For the purposes of clause (e), a person lodging another person in any accommodation which is an hotel or a lodging house shall not be deemed to have sub-let such accommodation.

15. Penalty.—Any person who contravenes any of the provisions of this Ordinance or any order made in pursuance thereof shall be punishable, on conviction, with simple imprisonment for a term which may extend to six months or with fine, which may extend to one thousand rupees, or with both.

16. Attempts, etc.—Any person who attempts to contravene or abets a contravention of any order made under this Ordinance shall be deemed to have contravened that order.

17. Offences by companies.—(1) If the person contravening any order made under this Ordinance is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Ordinance if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate, and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means a partner in the firm.

18. Ordinance to over-ride other laws.—The provisions of this Ordinance and of any orders or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

19. Pending suits for eviction.—In all suits for eviction of a tenant from any accommodation pending on the date of the commencement of this Ordinance, no decree for eviction shall be passed except on one or more of the grounds mentioned in section 14.

20. Execution of pending decrees for eviction.—Any decree for the eviction of a tenant from any accommodation passed before the commencement of this Ordinance, in so far as it relates to the eviction of such tenant, shall not be capable of execution unless the decree is based on one or more of the grounds specified in section 14:

Provided that where the decree is based on the ground specified in clause (a) of section 14, the decree shall not be capable of execution if the tenant agrees to pay to the landlord the reasonable annual rent or the rent payable by him before the passing of the decree, whichever is lower.

21. Orders under Ordinance not to be questioned in any court.—Save as otherwise provided in this Ordinance, no order made thereunder by the Government or the district magistrate or the officer commanding the station shall be called in question in any court.

22. Protection for action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under this Ordinance.

23. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the manner in which any notice under this Ordinance may be served ;
- (b) the procedure to be followed by district magistrates in the disposal of any proceedings under this Ordinance ;
- (c) the manner in which and the conditions subject to which officers commanding the station may exercise their powers under this Ordinance

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy.

The

Calcutta Gazette

স্বাধীন ভারত

THURSDAY, FEBRUARY 14, 1952

**PART V—Acts of the Parliament of India assented to by the President
and Ordinances promulgated by the President.**

GOVERNMENT OF INDIA.

Ministry of Law.

Ordinance No. III of 1952

**THE REQUISITIONING AND ACQUISITION OF IMMOVABLE
PROPERTY ORDINANCE, 1952.**

**An Ordinance to provide for the requisitioning and acquisition of
immovable property for the purposes of the Union.**

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Requisitioning and Acquisition of Immovable Property Ordinance, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. Definitions.—In this Ordinance, unless the context otherwise requires,—

(a) “award” means any award of an arbitrator made under section 8;

(b) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Ordinance for such area as may be specified in the notification;

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- (c) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;
 - (d) the expression "person interested", in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Ordinance;
 - (e) "premises" means any building or part of a building and includes—
 - (i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building;
 - (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;
 - (f) "prescribed" means prescribed by rules made under this Ordinance;
 - (g) "property" means immovable property of every kind and includes any rights in or over such property;
 - (h) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. Power to requisition immovable property.—(1) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority—

- (a) shall call upon the owner or any other person who may be in possession of the property by notice in writing to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and
- (b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority, dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no property which is exclusively used either for the purpose of religious worship or as a school, hospital or an orphanage shall be requisitioned.

4. Power to take possession of requisitioned property.—(1) Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within ten days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. Rights over requisitioned property.—(1) When any property is requisitioned under section 3, the competent authority may use or deal with the property in such manner and for such purposes of the Union as may appear to it to be expedient.

(2) Where any premises are requisitioned under section 3, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. Release from requisitioning.—(1) The Central Government may at any time release from requisition any property requisitioned under this Ordinance and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Central Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Ordinance or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Central Government, be void:

Provided that the benefit of this section shall not be available to the Central Government where the injury to such property is caused by any wrongful act or default of that Government.

7. Power to acquire requisitioned property.—(1) Where any property is subject to requisition, the Central Government may at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Central Government has decided to acquire the property in pursuance of this section.

(2) When a notice as aforesaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:—

- (a) where any works have, during the period of requisition, been constructed on, in or over the property wholly or partially at the expense of the Central Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or
- (b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Central Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

8. Principles and method of determining compensation.—(1) Where any property is requisitioned or acquired under this Ordinance, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;
- (c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;
- (d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

- (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;
 - (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;
 - (g) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this section.
- (2) The amount of compensation payable for the requisitioning of any property shall consist of—
- (a) a recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and
 - (b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :—
 - (i) pecuniary loss due to requisitioning;
 - (ii) expenses on account of vacating the requisitioned premises;
 - (iii) expenses on account of reoccupying the premises upon release from requisition; and
 - (iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.
- (3) The compensation payable for the acquisition of any property under section 7 shall be—
- (a) the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or
 - (b) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of requisition,

whichever is less.

9. Payment of compensation.—The amount of compensation payable under an award shall, subject to any rules made under this Ordinance, be paid by the competent authority to the person or persons entitled thereto in such manner as may be specified in the award.

10. Appeals from orders of requisitioning.—(1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 3 may, within ten days from the date of service of the order, prefer an appeal to the Central Government:

Provided that the Central Government may entertain the appeal after the expiry of the said period of ten days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Central Government may, after calling for a report from the competent authority and after making such further inquiry, if any, as may be necessary, pass such order as it thinks fit and the order of the Central Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Central Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

11. Appeals from awards in respect of compensation.—Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

12. Competent authority and arbitrator to have certain powers of civil courts.—The competent authority and the arbitrator appointed under section 8, while holding an inquiry or, as the case may be, arbitration proceedings under this Ordinance, shall have all the powers of a civil court while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for examination of witnesses.

13. Power to obtain information.—The Central Government or the competent authority may, with a view to carrying out the purposes of section 3 or section 6, or section 7 or section 8 by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Ordinance.

14. Power to enter and inspect.—The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under this Ordinance should be made in relation to such property or with a view to securing compliance with the order made under this Ordinance.

15. Service of notice and orders.—(1) Subject to the provisions of this section and of any rules that may be made under this Ordinance, every notice or order issued or made under this Ordinance shall,—

- (a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette; and
- (b) in the case of any notice or order affecting an individual corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908); and

- (c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—
 - (i) by delivering or tendering it to that person; or
 - (ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or
 - (iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

16. Easement not to be disturbed.—No person interested in any property requisitioned or acquired under this Ordinance shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. Delegation of powers.—The Central Government may, by general or special order, direct that the powers exercisable by it by or under this Ordinance shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by an officer subordinate to that Government.

18. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Central Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Ordinance or any order made thereunder.

19. Bar of jurisdiction of civil courts.—Save as otherwise expressly provided in this Ordinance, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Ordinance to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Ordinance.

20. Penalty for offences.—Whoever contravenes any provision of this Ordinance, or of any rule made thereunder, or any order made or direction given under this Ordinance, or obstructs the lawful exercise of any power conferred by or under this Ordinance, shall be punishable with fine which may extend to one thousand rupees.

21. Certain persons to be public servants.—The competent authority, every arbitrator and every officer empowered by the Central Government or the competent authority, while exercising any power or performing any duty under this Ordinance, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

22. Power to make Rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6;
- (b) the procedure to be followed in arbitration proceedings and appeals under this Ordinance;
- (c) levy of court-fee in respect of appeals under section 11;
- (d) the principles to be followed in determining the amount of compensation and method of payment of such compensation;
- (e) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Ordinance;
- (f) the manner of service of notices and orders;
- (g) any other matter which has to be, or may be, prescribed.

23. Validation of certain requisitions.—All immovable property which purports to have been requisitioned by a State Government for any public purpose being a purpose of the Union, under any Provincial or State Act and which, immediately before the commencement of this Ordinance, is used or occupied by the Central Government or by an officer or authority subordinate to that Government shall, on such commencement, be deemed to be property duly requisitioned under section 3 of this Ordinance, and every such requisition shall, notwithstanding any judgment, decree or order of any court, be deemed always to have been valid as if this Ordinance had been in force on and from the date of the requisition and the requisition had been duly made by a competent authority under this Ordinance, and all the provisions of this Ordinance shall apply accordingly:

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Ordinance and in force immediately before such commencement, shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement.

24. *Repeals and savings.—(1) The Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947) and the Delhi Premises (Requisition and Eviction) Act, 1947 (XLIX of 1947) are hereby repealed.

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of either of the said Act shall, on the commencement of this Ordinance, be deemed to be property requisitioned under section 3 of this Ordinance, and all the provisions of this Ordinance shall apply accordingly:

Provided that—

- (a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Ordinance and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;
- (b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under either of the said Acts shall, in so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been done or taken in the exercise of the powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing was done or action was taken.

25. Amendment of Act XXVII of 1950.—The following amendments shall be made in the Government Premises (Eviction) Act, 1950, namely:—

- (1) In sub-section (2) of section 1, for the words "the States of Jammu and Kashmir and Delhi", the words "the State of Jammu and Kashmir" shall be substituted.
- (2) For clause (b) of section 2, the following clause shall be substituted, namely:—

"(b) 'Government premises' means any premises or land belonging to, or taken on lease or requisitioned by, the Central Government or requisitioned by the competent authority under the Requisitioning and Acquisition of Immovable Property Ordinance, 1952, and, in relation to the State of Delhi, includes any premises or land belonging to any municipality in Delhi or any land belonging to the Improvement Trust, Delhi, whether such land is in the possession of, or leased out by, the Improvement Trust.

- (3) In section 3, for the words "the premises" wherever they occur, the words "the Government premises" shall be substituted.

- (4) For section 4, the following section shall be substituted, namely:—

"4. *Power to recover rent or damages in respect of Government premises as arrears of land revenue.*—(1) Subject to any rules that may be made in this behalf by the Central Government, by notification in the Official Gazette, any sum due by way of rent in respect of any Government premises which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

- (2) Where any person is in unauthorised occupation of any Government premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the Government premises as it thinks fit and may, by notice served by post or in such other manner as may be prescribed by rules made in this behalf, order that person to pay the damages within such time as may be specified in the notice.

- (3) If any person refuses or fails to pay the damage within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue."

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- (5) In sub-section (2) of section 10—
- (i) after clause (b), the following clause shall be inserted, namely :—
“(bb) the circumstances under which rent in respect of Government premises may be recovered as an arrear of land revenue;”;
 - (ii) to clause (c) the words “and the matters which may be taken into account in assessing such damages” shall be inserted;
 - (iii) after clause (c), the following clause shall be inserted, namely :—
“(cc) the manner of service of any notice under this Act;”.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

The
Calcutta Gazette



THURSDAY, FEBRUARY 28, 1952

**PART V—Acts of the Parliament of India assented to by the President
and Ordinances promulgated by the President.**

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 15th February, 1952, and are hereby published for general information:—

ACT NO. I OF 1952.

THE PART B STATES MARRIAGES VALIDATING ACT, 1952.

An Act to validate certain marriages solemnized in certain Part B States between the 26th day of January, 1950 and the 31st day of March, 1951, under the Indian Christian Marriage Act, 1872.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Part B States Marriages Validating Act, 1952.

2. Validation of certain irregular marriages.—All marriages between persons one or both of whom is or are a Christian or Christians, which were solemnized in any Part B State other than the State of Jammu and Kashmir between the 26th day of January, 1950 and the 31st day of March, 1951, under the Indian Christian Marriage Act, 1872 (XV of 1872), shall be, and shall be deemed to have been with effect from the date of solemnization of each of them respectively, as good and valid in law as if such marriages had been solemnized by a person duly authorised under the said Act to solemnize such marriages in the Part B State concerned. •

3. Validation of records of marriages validated by section 2.—Certificates of marriages which are declared by section 2 to be good and valid in law, and register books, and certified copies of true and duly authenticated extracts therefrom, deposited or purporting to be deposited in compliance with the provisions of the Indian Christian Marriage Act, 1872 (XV of 1872), in so far as the register, books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been duly solemnized under the said Act.

ACT NO. II OF 1952.**THE PREVENTION OF CORRUPTION (AMENDMENT) ACT, 1952.**

An Act further to amend the Prevention of Corruption Act, 1947.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Prevention of Corruption (Amendment) Act, 1952.

2. Amendment of section 1, Act II of 1947.—In sub-section (3) of section 1 of the Prevention of Corruption Act, 1947, for the words “five years” the words “ten years” shall be substituted.

K. V. K. SUNDARAM, Secy.

Calcutta

Gazette



THURSDAY, MARCH 20, 1952

**PART V—Acts of the Parliament of India assented to by the President
and Ordinances promulgated by the President.**

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on 22nd February 1952, and is hereby published for general information:—

ACT NO. (III OF 1952).

THE INDIAN EXPLOSIVES (AMENDMENT) ACT, 1952.

An Act further to amend the Indian Explosives Act, 1884.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Explosives (Amendment) Act, 1952.

2. Amendment of section 5, Act IV of 1884.—For sub-section (3) of section 5 of the Indian Explosives Act, 1884 (hereinafter referred to as the principal Act), the following sub-section shall be substituted, namely:—

“(3) Any person contravening the rules made under this section shall be punishable,—

(a) if he imports or manufactures any explosive in such contravention, with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees, or with both;

(b) if he possesses, uses, sells or transports any explosive in such contravention, with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both; and

(c) in any other case, with fine which may extend to one thousand rupees.”

3. Amendment of section 6, Act IV of 1884.—In sub-section (3) of section 6 of the principal Act,—

(i) for the words “shall be punished with fine which may extend to three thousand rupees” the words “shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both” shall be substituted; and

(ii) for the words “each be punished with fine which may extend to three thousand rupees”, the words “each be punishable with fine which may extend to five thousand rupees” shall be substituted.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on 23rd February 1952, and are hereby published for general information:—

ACT NO. IV OF 1952.

THE MADRAS PORT TRUST (AMENDMENT) ACT, 1952.

An Act further to amend the Madras Port Trust Act, 1905.

Be it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Madras Port Trust (Amendment) Act, 1952.

2. **Amendment of section 7, Madras Act II of 1905.**—In section 7 of the Madras Port Trust Act, 1905 (hereinafter referred to as the principal Act), for the words "twenty-one trustees", the words "twenty trustees" shall be substituted.

3. **Amendment of section 8, Madras Act II of 1905.**—For clause (c) and clause (d) of sub-section (I) of section 8 of the principal Act, the following clause shall be substituted, namely:—

"(c) the General Manager, Southern Railway, *ex-officio*;".

ACT NO. V OF 1952.

THE DELHI UNIVERSITY (AMENDMENT) ACT, 1952.

An Act further to amend the Delhi University Act, 1922.

Be it enacted by Parliament as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Delhi University (Amendment) Act, 1952.

(2) This section and sections 26 and 27 shall come into force at once and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint, and different dates may be appointed for different provisions.

2. **Amendment of long title and preamble, Act VIII of 1922.**—In the long title of, and the preamble to, the Delhi University Act, 1922 (hereinafter referred to as the principal Act), for the words "unitary teaching and residential University", the words "teaching and affiliating University" shall be substituted.

3. **Amendment of section 2, Act VIII of 1922.**—In section 2 of the principal Act,—

(i) for clauses (a) and (b), the following clauses shall be substituted, namely:—

'(a) 'College' means an institution maintained or admitted to its privileges by the University, and includes an Affiliated College and a Constituent College;

Explanation I.—'Affiliated College' means an institution recognised by the University in accordance with the provisions of this Act and the Statutes in which instruction is provided in accordance with the provisions of the Statutes and Ordinances up to the Bachelor's degree but exclusive of Honours and post-graduate degrees;

Explanation II.—‘Constituent College’ means an institution recognised as such by the Executive Council in accordance with the provisions of this Act and the Statutes;

(b) ‘Hall’ means a unit of residence for students of the University provided, maintained or recognised by it;”;

(ii) clause (e) shall be omitted;

(iii) for clause (h), the following clause shall be substituted, namely:—

“(h) ‘teachers of the University’ means persons appointed or recognised by the University for the purpose of imparting instruction in the University or in any College.”

4. Amendment of section 4, Act VIII of 1922.—In section 4 of the Principal Act,—

(i) for clause (2), the following clause shall be substituted, namely:—

“(2) to hold examinations and to grant to, and confer degrees and other academic distinctions on, persons who—

(a) have pursued a course of study in the University or in any College, or

(b) are non-collegiate women students residing within the territorial jurisdiction of the University, or

(c) are teachers in educational institutions under conditions laid down in the Statutes and Ordinances and have passed the examinations of the University under like conditions.”;

(ii) in clause (8), the words “in accordance with the Statutes and the Regulations” shall be omitted;

(iii) for clause (9), the following clause shall be substituted, namely:—

“(9) to maintain Colleges and Halls, to admit to its privileges Colleges not maintained by the University and to withdraw all or any of those privileges, and to recognise Halls not maintained by the University and to withdraw any such recognition.”;

(iv) for clause (12), the following clauses shall be substituted, namely:—

“(12) to make special arrangements in respect of the residence, discipline and teaching of women students,

(12A) to create administrative and ministerial and other necessary posts and to make appointments thereto, and”.

5. Amendment of section 5, Act VIII of 1922.—In section 5 of the Principal Act,—

(i) in sub-section (1),—

(a) for the words “beyond a radius of 10 miles from the Convocation Hall of the University” and “that limit”, the words “beyond the limits of the State of Delhi” and “those limits” shall, respectively, be substituted;

(b) the proviso shall be omitted;

(ii) in sub-section (2), for the words “afore-mentioned limit” and “that limit”, the words “afore-mentioned limits” and “those limits” shall, respectively, be substituted.

6. Amendment of section 6, Act VIII of 1922.—In section 6 of the principal Act,—

- (i) for the words “creed or class”, the words “creed, caste or class” shall be substituted;
- (ii) the words “where such test is specially prescribed by the Statutes or” shall be omitted; and
- (iii) in the proviso, for the words and brackets “not unwilling to receive it by persons (whether teachers of the University or not approved for that purpose by the Executive Council”, the words “who have consented to receive it” shall be substituted.

7. Amendment of section 7, Act VIII of 1922.—In section 7 of the principal Act, sub-section (5) shall be omitted.

8. Insertion of new sections 7A and 7B in Act VIII of 1922.—After section 7 of the principal Act, the following sections shall be inserted namely:—

- “(7A. Visitor.—(1) The President of India shall be the Visitor of the University.
- (2) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University its buildings, laboratories and equipment and of any institution maintained by the University, and also of the examinations teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the University.
- (3) The Visitor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.
- (4) The Visitor may address the Vice-Chancellor with reference to the result of such inspection and inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.
- (5) The Executive Council shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.
- (6) Where the Executive Council does not, within a reasonable time take action to the satisfaction of the Visitor, the Visitor may after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall be bound to comply with such directions:
- (7) Without prejudice to the foregoing provisions of this section the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order he shall call upon the University to show cause why such an order should not be made and, if any cause is shown within a reasonable time, shall consider the same.

7B. Chief Rector and Rectors.—(1) The Chief Commissioner of the State of Delhi shall be the Chief Rector of the University.

(2) Such persons, as may be appointed in this behalf in accordance with the Statutes, shall be the Rectors of the University.”

9. Amendment of section 8, Act VIII of 1922.—In section 8 of the principal Act,—

(i) for item (iv), the following item shall be substituted, namely:—
“(iv) the Pro-Vice-Chancellor, if any.”

10. Omission of sections 9 to 15, Act VIII of 1922.—Sections 9 to 15 (inclusive) of the principal Act shall be omitted.

11. Substitution of new section for section 16, Act VIII of 1922.—For section 16 of the principal Act, the following section shall be substituted, namely:—

“16. Powers and duties of officers, etc.—Subject to the provisions of this Act, the powers and duties of the officers of the University, the terms for which they shall hold office and the filling of casual vacancies in such offices shall be provided for by the Statutes.”

12. Amendment of section 17, Act VIII of 1922.—In section 17 of the principal Act, after item (iii), the following item shall be inserted, namely:—

(iiia) the Finance Committee.”.

13. Substitution of new section for section 18, Act VIII of 1922.—For section 18 of the principal Act, the following section shall be substituted, namely:—

“18. The Court.—The Court shall be the supreme authority of the University and shall have the power to review the acts of the Executive Council and the Academic Council (save when these authorities have acted in accordance with the powers conferred upon them under this Act, the Statutes or the Ordinances) and shall exercise all the powers of the University not otherwise provided for by this Act or the Statutes.”

14. Omission of sections 19, 20, 22 and 24, Act VIII of 1922.—Sections 19, 20, 22 and 24 of the principal Act shall be omitted.

15. Substitution of new section for section 25, Act VIII of 1922.—For section 25 of the principal Act, the following section shall be substituted, namely:—

“25. Powers and duties of authorities of the University.—Subject to the provisions of this Act, the constitution, powers and duties of the authorities of the University shall be provided for by the Statutes.”

16. Substitution of new section for section 28, Act VIII of 1922.—For section 28 of the principal Act, the following section shall be substituted, namely:—

“28. Statutes.—Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and duties of the Court, the Executive Council, the Academic Council, the Finance Committee and such other bodies as may be deemed necessary to constitute from time to time;

- (b) the election and continuance in office of the members of the said bodies including the continuance in office of the first members and the filling of vacancies of members, and all other matters relative to those bodies for which it may be necessary, desirable to provide;
- (c) the appointment, powers and duties of the officers of the University;
- (d) the constitution of a pension or provident fund and the establishment of an insurance scheme for the benefit of the officers, teachers and other employees of the University;
- (e) the conferment of honorary degrees;
- (f) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (g) the establishment and abolition of Faculties, Departments, Halls, Colleges and institutions;
- (h) the conditions under which colleges and other institutions may be admitted to the privileges of the University and the withdrawal of such privileges;
- (i) the institution of fellowships, scholarships, studentships, exhibitions, medals and prizes; and
- (j) all other matters which by this Act are or may be provided for by the Statutes."

17. Amendment of section 29, Act VIII of 1922.—In section 29 of the principal Act, for sub-sections (2) to (7) (inclusive), the following sub-sections shall be substituted, namely:—

- "(2) The Court may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.
- (3) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court, and such draft shall be considered by the Court at its next meeting.
- (4) The Court may approve any such draft as is referred to in sub-section (3) and pass the Statutes or reject it or return it to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest: Provided that the Executive Council shall not propose the draft of any Statute or of any amendment of a Statute affecting the status, powers or constitution of any existing authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal, and any opinion so expressed shall be in writing and shall be considered by the Court.
- (5) Any member of the Court may propose to the Court the draft of any Statute and the Court may either reject the proposal or refer such draft for consideration to the Executive Council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the Executive Council.
- (6) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction, disallow or remit it for further consideration."

18. Substitution of new sections for sections 30 and 31, Act VIII of 1922.—For sections 30 and 31 of the principal Act, the following sections shall be substituted, namely:—

- “30. *Ordinances.*—Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—
- (a) the admission of students to the University and their enrolment as such;
 - (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
 - (c) the degrees, diplomas, certificates and other academic distinctions to be awarded by the University, the qualifications for the same, and the means to be taken relating to the granting and obtaining of the same;
 - (d) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;
 - (e) the conditions of the award of fellowships, scholarships, studentships, exhibitions, medals and prizes;
 - (f) the conduct of examinations, including the terms of office and manner of appointment and the duties of examining bodies, examiners and moderators;
 - (g) the maintenance of discipline among the students of the University;
 - (h) the conditions of residence of students at the University;
 - (i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students, and the prescribing for them of special courses of study;
 - (j) the giving of religious instruction;
 - (k) the emoluments and the terms and conditions of service of teachers of the University;
 - (l) the management of Colleges and other institutions founded or maintained by the University;
 - (m) the supervision and inspection of Colleges and other institutions admitted to privileges of the University; and
 - (n) all other matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

31. *Ordinances how made.*—(1) The Ordinances of the University as in force immediately before the commencement of the Delhi University (Amendment) Act, 1952, may be amended, repealed or added to at any time by the Executive Council:

Provided that—

- (i) no Ordinance shall be made affecting the conditions of residence or discipline of students, except after consultation with the Academic Council;
- (ii) no Ordinance shall be made—
 - (a) affecting the admission or enrolment of students or prescribing examinations to be recognised as equivalent to the University examinations, or

(b) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council.

(2) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub-section (1) but may reject the proposal or return the draft to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(3) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Central Government and the Central Government may, by order, direct that the proposed Ordinance shall be laid before the next meeting of the Court for its approval and that pending such approval it shall have effect from such date as may be specified in the order:

Provided that if the Ordinance is not approved by the Court at such meeting, it shall cease to have effect.

(4) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Visitor and the Court, and shall be considered by the Court at its next meeting and the Court shall have power, by a resolution passed by a majority of not less than two-thirds of the members voting, to cancel any Ordinance made by the Executive Council, and such Ordinance shall from the date of such resolution cease to have effect.

(5) The Visitor may, by order, direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(6) The Visitor may, at any time after an Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and from the date of receipt by the Executive Council of intimation of such disallowance such Ordinance shall cease to have effect."

19. Amendment of section 32, Act VIII of 1922.—In section 32 of the principal Act,—

(i) in sub-section (1), the words "and the Boards" shall be omitted, and for the words "and Boards" in clause (c) the words "or Committees appointed by them" shall be substituted;

(ii) in the proviso to sub-section (3), for the words "Central Government" the word "Court" shall be substituted.

20. Amendment of section 33, Act VIII of 1922.—In section 33 of the principal Act, the words "the Statutes and" shall be omitted.

21. Amendment of section 35, Act VIII of 1922.—In sub-section (2) of section 35 of the principal Act, for the word "Statutes" the word "Ordinances" shall be substituted.

22. Omission of sections 36 and 37, Act VIII of 1922.—Sections 36 and 37 of the principal Act shall be omitted.

23. Substitution of new section for section 39, Act VIII of 1922.—For section 39 of the principal Act, the following section shall be substituted, namely:—

“39. *Audit of accounts.*—(1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India.

(2) The accounts, when audited, shall be published in the Gazette of India, and a copy of the accounts together with the audit report shall be submitted by the University to the Visitor.”

24. Omission of section 40, Act VIII of 1922.—Section 40 of the principal Act shall be omitted.

25. Substitution of new section for section 45, Act VIII of 1922.—For section 45 of the principal Act, the following section shall be substituted, namely:—

“45. *Conditions of service of officers and teachers.*—(1) Every salaried officer and teacher of the University shall be appointed under a written contract, which shall be lodged with the University and a copy thereof shall be furnished to the officer or teacher concerned.

(2) Any dispute arising out of a contract between the University and any of its officers or teachers shall, at the request of the officer or teacher concerned or at the instance of the University, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Visitor, and the decision of the Tribunal shall be final.”

26. Temporary provisions for amendment of Statutes.—The Central Government may, by notification in the Official Gazette, make such adaptations and modifications in the Statutes in force immediately before the commencement of this Act as in its opinion may be necessary or expedient to bring the provisions of the Statutes into accord with the provisions of the principal Act as amended by this Act:

Provided that nothing in this section shall be deemed to empower the Central Government to make any adaptation or modification of any such Statutes after the expiration of three months from the date on which this Act is brought into force by the Central Government under sub-section (2) of section 1.

27. Transitional provisions.—Any officer or authority of the University exercising any functions under the principal Act immediately before the commencement of this Act, shall continue to exercise such functions until the corresponding new officer or authority is appointed, elected or constituted in accordance with the provisions of the principal Act as amended by this Act or the Statutes as adapted or modified under this Act.

ACT NO. VI OF 1952.**THE CAPITAL ISSUES (CONTINUANCE OF CONTROL) AMENDMENT ACT, 1952.**

An Act further to amend the Capital Issues (Continuance of Control) Act, 1947.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Capital Issues (Continuance of Control) Amendment Act, 1952.

2. Amendment of section 1, Act XXIX of 1947.—In sub-section (3) of section 1 of the Capital Issues (Continuance of Control) Act, 1947 (hereinafter referred to as the principal Act), for the figures “1952” the figures “1956” shall be substituted.

3. Amendment of section 12, Act XXIX of 1947.—In section 12 of the principal Act, after the words “this Act” the words “and in particular for the levy of fees on applications made to the Central Government for its consent” shall be inserted.

ACT No. VII OF 1952.**THE ABDUCTED PERSONS (RECOVERY AND RESTORATION) AMENDMENT ACT, 1952.**

An Act to amend the Abducted Persons (Recovery and Restoration) Act, 1949.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Abducted Persons (Recovery and Restoration) Amendment Act, 1952.

2. Amendment of section 1, Act LXV of 1949.—In section 1, of the Abducted Persons (Recovery and Restoration) Act, 1949, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) It extends to the States of Punjab, Uttar Pradesh, Patiala and East Punjab States Union, Rajasthan and Delhi and shall remain in force up to the 31st day of October, 1952.”

3. Repeal of Ordinance VII of 1951.—The Abducted Persons (Recovery and Restoration) Amendment Ordinance, 1951 (VII of 1951) is hereby repealed.

ACT NO. VIII OF 1952.**THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ACT, 1952.**

An Act further to amend the Foreign Exchange Regulation Act, 1947.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1952.

2. Amendment of section 1, Act VII of 1947.—In section 1 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) It shall remain in force up to the thirty-first day of December, 1957.”

3. Amendment of section 2, Act VII of 1947.—In section 2 of the principal Act, clause (o) shall be omitted.

4. Amendment of section 8, Act VII of 1947.—In section 8 of the principal Act, sub-section (3) shall be omitted.

5. Amendment of section 12, Act VII of 1947.—In sub-section (1) of section 12 of the principal Act, for the words "prohibit the export" the words "prohibit the taking or sending out by land, sea or air (hereafter in this section referred to as export)" shall be substituted.

6. Substitution of new section for section 18 in Act VII of 1947.—For section 18 of the principal Act, the following section shall be substituted, namely:—

"18. *Certain provisions as to companies.*—(1) Where there is served on any person resident in the States a notice in writing that the Central Government or the Reserve Bank wishes any such requirements as are hereinafter mentioned to be complied with by any such company as is specified in *Explanation I* [hereafter in this sub-section and in sub-section (2) referred to as a foreign company] and that person can by doing or refraining from doing any act—

- (a) cause the foreign company to comply with any of the requirements, or
- (b) remove any obstacle to the foreign company complying with any of the requirements, or
- (c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Central Government or, as the case may be, by the Reserve Bank, that person shall do or, as the case may be, refrain from doing that act.

(2) The requirements with respect to which a notice under sub-section (1) may be given are as follows, that is to say, the foreign company shall—

- (i) furnish to the Central Government or, as the case may be, to the Reserve Bank such particulars as to its assets and business as may be mentioned in the notice;
- (ii) sell or procure the sale to an authorised dealer of any foreign exchange mentioned in the notice, being foreign exchange which it is entitled to sell or of which it is entitled to procure the sale;
- (iii) declare and pay such dividend as may be mentioned in the notice;
- (iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned;
- (v) refrain from selling or transferring or doing anything which affects its rights or powers in relation to any such instruments or securities as may be mentioned in the notice.

(3) Except with the general or special permission of the Reserve Bank, no person resident in the States shall do any act whereby a company which is controlled by persons resident in India ceases to be so controlled.

- (4) Except with the general or special permission of the Reserve Bank no person resident in the States shall lend any money either to any company (other than a banking company) which is controlled directly or indirectly by persons resident outside India elsewhere than in the territories notified in this behalf by the Reserve Bank or to any such person.

Explanation I.—The companies referred to in sub-section (1) are companies not incorporated under any law in force in the States in the case of which any of the following conditions is fulfilled:—

- (a) that the company is by any means controlled (directly or indirectly) by persons resident in the States; or
- (b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital would be receivable directly or indirectly by, or for the benefit of, persons resident in the States; or
- (c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors, would be receivable directly or indirectly by, or for the benefit of, persons resident in the States; or
- (d) that more than one-half—
 - (i) of the interest payable on its loans and loan capital, if any, or
 - (ii) of the dividends payable on its preference share capital, if any, or
 - (iii) of the dividends payable on its share capital, if any, not being preference share capital,
is receivable directly or indirectly by, or for the benefit of, persons resident in the States.

Explanation II.—Where the identity of the persons by whom, or for whose benefit, any sum, assets, interests or dividends are directly or indirectly receivable depends on the exercise by any person resident in the States of a power vested in him in that behalf, the sum, assets, interest or dividends shall, for the purposes of this sub-section, be deemed to be receivable directly or indirectly by, or for the benefit of, persons resident in the States.”

7. Amendment of section 19, Act VII of 1947.—For sub-sections (2) and (3) of section 19 of the principal Act, the following sub-sections shall be substituted, namely:—

- “(2) Where for the purposes of this Act the Central Government or the Reserve Bank considers it necessary or expedient to obtain and examine any information, book or other document in the possession of any person or which in the opinion of the Central Government or the Reserve Bank it is possible for such person to obtain and furnish, the Central Government or, as the case may be, the Reserve Bank may, by order in writing, require any such person (whose name shall be specified in the order) to furnish, or to obtain and furnish, to the Central Government or the Reserve Bank or any person specified in the order with such information, book or other document.
- “(3) If on a representation in writing, made by a person authorised in this behalf by the Central Government or the Reserve Bank, a District Magistrate, Subdivisional Magistrate, Presidency

Magistrate or Magistrate of the first class, has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place, or that a person to whom an order under sub-section (2) of this section has been or might be addressed, will not or would not produce the information, book or other document, or where such information, book or other document is not known to the Magistrate to be in the possession of any person, or where the Magistrate considers that the purposes of any investigation or proceeding under this Act will be served by a general search or inspection, he may issue a search warrant and the person to whom such warrant is directed may search or inspect in accordance therewith and seize any book or other document, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to searches under that Code shall, so far as the same are applicable, apply to searches under this sub-section:

Provided that such warrant shall not be issued to any police officer below the rank of Sub-Inspector.

Explanation.—In this sub-section, ‘place’ includes a house, building, tent, vehicle, vessel or aircraft.”

8. Amendment of section 23, Act VII of 1947.—In sub-section (3) of section 23 of the principal Act, after the words “or the Reserve Bank” the words “by a general or special order” shall be inserted.

9. Insertion of new sections 23A and 23B in Act VII of 1947.—After section 23 of the principal Act, the following sections shall be inserted, namely:—

“23A. *Application of Sea Customs Act, 1878.*—Without prejudice to the provisions of section 23 or to any other provision contained in this Act, the restrictions imposed by sub-sections (1) and (2) of section 8, sub-section (1) of section 12 and clause (a) of sub-section (1) of section 13 shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878 (VIII of 1878), and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word ‘shall’ therein the word ‘may’ were substituted.

23B. *Attempts.*—Whoever attempts to contravene any of the provisions of this Act or of any rule, direction or order made thereunder shall be deemed to have contravened that provision, rule, direction or order, as the case may be.”

10. Amendment of section 24, Act VII of 1947.—Section 24 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Where any person is prosecuted for contravening the provisions of sub-section (3) of section 4, the burden of proving that the foreign exchange acquired by such person has been used for the purpose for which permission to acquire it was granted shall be on him.”

11. Insertion of new section 24A in Act VII of 1947.—After section 24 of the principal Act, the following section shall be inserted, namely:—

"24A. Presumption as to documents in certain cases.—Where any document is furnished by any person under sub-section (2) of section 19, or has been seized under sub-section (3) of that section from the custody or control of any person, and such document is tendered by the prosecution in evidence against him, the court shall, unless the contrary is proved by any such person, presume—

- (a) the truth of the contents of such document;
- (b) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested."

12. Repeal of Ordinance X of 1951.—(1) The Foreign Exchange Regulation (Amendment) Ordinance, 1951 (X of 1951) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

ACT NO. IX OF 1952.

THE INDIAN INDEPENDENCE PAKISTAN COURTS (PENDING PROCEEDINGS) ACT 1952.

An Act to render ineffective certain decrees and orders passed by courts in Pakistan against a Government in India and to provide an alternative remedy to persons who have secured such decrees or orders.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Independence Pakistan Courts (Pending Proceedings) Act, 1952.

2. Definition.—In this Act, the expression "decree to which this Act applies" means any such judgment, decree or order as is referred to in—

- (i) clause (3) of article 4 of the Indian Independence (Legal Proceedings) Order, 1947, or
- (ii) paragraph (5) or paragraph (6) of article 13 of the High Courts (Bengal) Order, 1947, or
- (iii) paragraph (4) or paragraph (6) of the High Courts (Punjab) Order, 1947,

which has been or may hereafter be passed by a court in Pakistan and which imposes any liability or obligation on a Government in India.

3. Certain Pakistan decrees not to be given effect to in India.—Notwithstanding anything contained in any of the Orders referred to in section 2, no decree to which this Act applies shall be given effect to by any court or authority in India in so far as such decree imposes any liability or obligation on any Government in India.

4. Right of holder of a decree to which this Act applies to institute fresh proceedings in India.—Notwithstanding anything contained in section 3 of the Indian Limitation Act, 1908 (IX of 1908), any person in whose favour a decree to which this Act applies has been passed may, within one year from the commencement of this Act, or within one year from the date of the decree, whichever is later, institute a fresh suit or other legal proceeding in respect of the cause of action on which such decree was based, and any such suit or other legal proceeding may, notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (Act V of 1908), or in any other law or in any agreement to the contrary relating to the place of suing, be instituted in any court otherwise competent to try it, within the local limits of whose jurisdiction the person instituting it voluntarily resides or carries on business or personally works for gain.

5. Repeal of Ordinance VI of 1951.—(1) The Indian Independence Pakistan Courts (Pending Proceedings) Ordinance, 1951 (VI of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on 27th February, 1952, and is hereby published for general information:—

ACT No. X OF 1952.

THE UTTAR PRADESH CANTONMENTS (CONTROL OF RENT AND EVICTION) ACT, 1952.

An Act to provide for the control of rent of house accommodation in cantonments in Uttar Pradesh and to prevent the eviction of tenants therefrom.

Be it enacted by Parliament as follows:—

1. **Short title and extent.**—(1) This Act may be called the Uttar Pradesh Cantonments (Control of Rent and Eviction) Act, 1952.

(2) It extends to all the cantonments in the State of Uttar Pradesh.

2. **Act not to apply to certain accommodation.**—Nothing contained in this Act shall apply to—

(a) any premises belonging to the Government;

(b) any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; or

(c) any house which is, or may hereafter be, appropriated by the Central Government on lease under the Cantonments (House-Accommodation) Act, 1923 (VI of 1923).

3. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “accommodation” means house accommodation, residential or non-residential, in any cantonment to which this Act applies, and includes—
 - (i) the gardens, grounds or outhouses, if any, appurtenant to the building or any part thereof;
 - (ii) any furniture supplied by the landlord for use in the house or any part thereof;
 - (iii) any fittings affixed to the building or any part of the building for the more beneficial enjoyment thereof;
- (b) “district magistrate” includes an officer authorised by a district magistrate to perform any of his functions under this Act;
- (c) “landlord” means a person to whom rent is payable by a tenant in respect of any accommodation, and includes—
 - (i) the agent, attorney, heir or assignee of the landlord, and
 - (ii) a tenant in relation to a sub-tenant;
- (d) “lease” includes a sub-lease;
- (e) “municipal assessment” means—
 - (i) in respect of accommodation which was assessed by a cantonment board on or before the 1st day of April, 1942, the annual rental value so assessed and in force on the said date, and
 - (ii) in respect of accommodation which was assessed by a cantonment board after the said date, the annual rental value first assessed after the said date;
- (f) “officer commanding the station” means the military officer for the time being in command of the forces in a cantonment or, if that officer is the Officer Commanding the Area or Officer Commanding-in-Chief, the Command, the military officer who would be in command of those forces in the absence of the Officer Commanding the Area and Officer Commanding-in-Chief, the Command, and includes any officer authorised by the officer commanding the station to exercise the powers of an officer commanding the station under this Act;
- (g) “reasonable annual rent” means—
 - (I) in the case of accommodation constructed before the 1st day of October, 1946,—
 - (i) if it is separately assessed to municipal assessment, its municipal assessment plus twenty-five per cent. thereon;
 - (ii) if it is a part only of the accommodation so assessed, the proportionate amount of the municipal assessment of such accommodation, plus twenty-five per cent. thereon;
 - (iii) if it is not assessed to municipal assessment—
 - (a) if it was held by a tenant on rent between the 1st day of April, 1942 and the 30th day of September, 1946, fifteen times the rent for the one month nearest to and after the 1st day of April, 1942; and
 - (b) if it was not so held on rent, the amount determined under section 7; and

- (2) in the case of accommodation constructed on or after the 1st day of October, 1946, the rent determined in accordance with section 7;
- (h) "tenant" means the person by whom rent is, or but for a contract express or implied, would be, payable for any accommodation, and includes any person holding or occupying the accommodation as a sub-tenant.

4. Control of rent.—(1) Except as hereafter in this section provided, the rent payable for any accommodation shall be such as may be agreed upon between the landlord and the tenant.

(2) Where the rent for any accommodation has not been agreed upon, whether in the case of tenancies continuing from any date before the 1st day of October, 1946, the landlord wishes to enhance the rent agreed upon, he may, by notice in writing, fix the annual rent at, or enhance it by an amount not exceeding, the reasonable annual rent:

Provided that the enhanced rent shall not exceed the rent, if any, payable on the 1st day of October, 1946, by more than fifty per cent. thereof:

Provided further that nothing in this section shall entitle the landlord to enhance the rent in the case of leases for a fixed term during the continuance of the term unless so permitted by the contract of tenancy.

(3) If any accommodation is let after the 16th day of January, 1952, without the rent being agreed upon between the landlord and the tenant, the rent fixed under sub-section (2) shall be payable from the date of commencement of the tenancy and where the rent agreed upon is enhanced under the said sub-section, the enhanced rent shall be payable from the 1st day of the month next after the month in which the notice is given.

(4) If the landlord claims that the reasonable annual rent of any accommodation is inadequate, or if the tenant claims that the reasonable annual rent is excessive or that the agreed rent is higher than the reasonable annual rent, he may institute a suit for fixation of rent in the court of the munsiff having territorial jurisdiction if the annual rent claimed or payable is five hundred rupees or less, and if it exceeds five hundred rupees, in the court of the civil judge having territorial jurisdiction or, if there is no such civil judge, in the court of the district judge:

Provided that the court shall not vary the agreed rent unless it is satisfied that the transaction was unfair and, in the case of a lease for fixed term made before the 1st day of April, 1942, that the term has expired.

(5) Notwithstanding anything contained in sub-sections (1), (2) and (3), the rent fixed by the court under sub-section (4) shall, so long as this Act remains in force, be payable by the tenant and from such date as the court may direct.

Explanation.—For the purposes of this section, "accommodation" includes any accommodation let on a monthly basis.

5. Procedure in suits under section 4.—In determining the amount of annual or monthly rent in any suit under sub-section (4) of section 4, the court shall take into account—

- (a) in the case of accommodation constructed before the 1st day of October, 1946, the pre-war rent, the reasonable annual or monthly rent, the prevailing rent on the date of the suit for

11. Eviction of tenants occupying accommodation under section 9.

(1) Where any tenant who is in occupation of any accommodation in pursuance of an order made under sub-section (1) of section 9 is in arrears of rent for more than three months, the landlord may make an application to the munsiff having territorial jurisdiction for an order of eviction of the tenant from the accommodation.

(2) Every application under sub-section (1) shall contain the following particulars, namely:—

- (a) the name of the landlord and, where there are more landlords than one, the names of all the landlords;
- (b) a sufficient description of the accommodation from which the tenant is to be evicted or a copy of the order of allotment;
- (c) the arrears claimed and the rate at which they are claimed;
- (d) where the rent has already been determined in a suit under sub-section (4) of section 4, the fact that it has been so determined

and shall be verified in the manner prescribed for the verification of plaint in the Code of Civil Procedure, 1908 (Act V of 1908).

(3) On the making of an application under sub-section (1), the munsiff shall, without unnecessary delay, cause a notice to be served on the tenant in the manner prescribed by rules under this Act requiring him to pay the amount of arrears within fifteen days of the service thereof or to show cause within the said period why an order evicting him from the accommodation be not passed against him.

(4) If within the time allowed in the notice under sub-section (3) the tenant pays into court the amount mentioned therein, the munsiff shall dismiss the application and direct the amount to be deposited to be paid to the landlord in satisfaction of the arrears and shall make such order as to costs as may appear to him to be just and proper.

(5) Where the tenant has been duly served with a notice under sub-section (3) but fails to deposit the amount mentioned within the time allowed therein and does not file any objection thereto, the munsiff shall notwithstanding anything to the contrary contained in the Transfer of Property Act, 1882 (IV of 1882), make an order directing that the tenant be evicted from the accommodation and that he shall pay the costs of the application.

(6) As soon as may be after an order has been passed under sub-section (5) the munsiff shall forward a copy of the same to the district magistrate and thereupon the district magistrate shall cause the tenant to be evicted from the accommodation, using or causing to be used such force as may be necessary for the purpose, and nothing contained in the Code of Civil Procedure, 1908 (Act V of 1908), shall apply to any such proceedings:

Provided that if the tenant at any time before his eviction deposits the amount due in the treasury or pays the landlord or the officer charged with the execution of the order for the delivery of possession the amount of arrears together with all the costs of the proceeding, the tenant shall no be evicted from the accommodation and the district magistrate shall report the proceedings to the munsiff who shall make an order quashing the proceedings:

Provided further that the district magistrate may, for sufficient reasons, allow such time as he may think fit to the tenant to pay the amount for which an order of eviction has been passed against him.

(7) Any order made under sub-section (5) or anything done or any action taken under sub-section (6) shall not be deemed in any way to affect the question of title to the property to which it relates.

12. Proceedings under section 11 may be converted into suits in certain cases.—(1) Where a tenant appears in reply to a notice under sub-section (3) of section 11 and files an objection, other than an objection as to the costs of the proceedings merely, the munsiff shall inform the applicant that he may, subject to the payment within such time as may be specified of the court-fee in respect thereof, have the application treated as a plaint in a suit for the recovery of arrears of rent alone:

Provided that the tenant shall not be permitted to file any objection unless he deposits in court the amount mentioned in the notice.

(2) If the applicant pays the necessary court-fee within the time allowed, the application shall be treated as a plaint and the proceedings as a suit and disposed of accordingly, but if no court-fee is so deposited the proceedings shall be quashed, without prejudice to the right of the applicant, to file, subject to any other law for the time being in force, a separate suit for ejectment and recovery of arrears.

13. Special costs for frivolous or vexatious applications or objections.—Whenever the munsiff finds that an application by the landlord under section 11 or any objection filed by the tenant under section 12 is frivolous or vexatious, he shall award, by way of special costs, to the tenant or the landlord, as the case may be, such sum not exceeding the amount of the claim as he may think fit.

14. Restrictions on eviction.—No suit shall, without the permission of the district magistrate, be filed in any civil court against a tenant for his eviction from any accommodation except on one or more of the following grounds, namely:—

- (a) that the tenant has wilfully failed to make payment to the landlord of any arrears of rent within one month of the service upon him of a notice of demand from the landlord;
- (b) that the tenant has wilfully caused or permitted to be caused substantial damage to the accommodation;
- (c) that the tenant has, without the permission of the landlord, made or permitted to be made any such construction as in the opinion of the court has materially altered the accommodation or is likely substantially to diminish its value;
- (d) that the tenant has created a nuisance or has done any act which is inconsistent with the purpose for which he was admitted to the tenancy of the accommodation or which is likely to affect adversely and substantially the landlord's interest therein;
- (e) that the tenant has sub-let the whole or any portion of the accommodation without the permission of the landlord;
- (f) that the tenant has renounced his character as such or has denied the title of the landlord and the latter has not waived his right or condoned the conduct of the tenant.

Explanation.—For the purposes of clause (e), a person lodging another person in any accommodation which is a hotel or a lodging house shall not be deemed to have sub-let such accommodation.

15. Penalty.—Any person who contravenes any of the provisions of this Act or any order made in pursuance thereof shall be punishable on conviction, with simple imprisonment for a term which may extend to six months or with fine, which may extend to one thousand rupees, or with both.

16. Attempts, etc.—Any person who attempts to contravene or abets a contravention of any order made under this Act shall be deemed to have contravened that order.

17. Offences by companies.—(1) If the person contravening any order made under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate, and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means a partner in the firm.

18. Act to over-ride other laws.—The provisions of this Act and of any orders or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

19. Pending suits for eviction.—In all suits for eviction of a tenant from any accommodation pending on the date of commencement of this Act, no decree for eviction shall be passed except on one or more of the grounds mentioned in section 14.

20. Execution of pending decrees for eviction.—Any decree for the eviction of a tenant from any accommodation passed before the commencement of this Act, in so far as it relates to the eviction of such tenant, shall not be capable of execution unless the decree is based on one or more of the grounds specified in section 14:

Provided that where the decree is based on the ground specified in clause (a) of section 14, the decree shall not be capable of execution if the tenant pays to the landlord or deposits in court the arrears of rent due from him together with all the costs of the proceedings and also agrees to pay to the landlord the reasonable annual rent or the rent payable by him before the passing of the decree, whichever is lower.

21. Orders under Act not to be questioned in any court.—Save as otherwise provided in this Act, no order made thereunder by the Government or the district magistrate or the officer commanding the station shall be called in question in any court.

22. Protection for action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

23. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner in which any notice under this Act may be served;
- (b) the procedure to be followed by district magistrates in the disposal of any proceedings under this Act;
- (c) the manner in which and the conditions subject to which officers commanding the station may exercise their powers under this Act.

24. Repeal of Ordinance II of 1952.—(1) The Uttar Pradesh Cantonments (Control of Rent and Eviction) Ordinance, 1952 (II of 1952) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

K. V. K. SUNDARAM, Secy.

Registered No. C207

The

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THURSDAY, APRIL 3, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 14th March, 1952, and are hereby published for general information :—

ACT No. XXX OF 1952.

THE REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1952.

An Act to provide for the requisitioning and acquisition of immovable property for the purposes of the Union.

Be it enacted by Parliament as follows :—

1. Short title, extent and duration.—(1) This Act may be called the Requisitioning and Acquisition of Immovable Property Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall remain in force for a period of six years from the date of the commencement of this Act.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “award” means any award of an arbitrator made under section 8;

(b) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;

(c) “landlord” means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

- (d) the expression "person interested", in relation to any property includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;
- (e) "premises" means any building or part of a building and includes—
 - (i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building;
 - (ii) any fittings affixed to such buildings or part of a building for the more beneficial enjoyment thereof;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "property" means immovable property of every kind and includes any rights in or over such property;
- (h) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. Power to requisition immovable property.—(1) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority—

- (a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and
- (b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority, dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof—

- (a) which is *bona fide* used by the owner thereof as the residence of himself or his family, or
- (b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage,

shall be requisitioned:

Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under subsection (1), the competent authority shall provide such tenant with alternative accommodation which, in its opinion, is suitable.

4. Power to take possession of requisitioned property.—(1) Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. Rights over requisitioned property.—(1) All property requisitioned under section 3, shall be used for such purposes as may be mentioned in the notice of requisition.

(2) Where any premises are requisitioned under section 3, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein, and, if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. Release from requisitioning.—(1) The Central Government may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Provided that where the purposes for which any requisitioned property was being used cease to exist, the Central Government shall, unless the property is acquired under section 7, release that property, as soon as may be, from requisition.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Central Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period, after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Central Government, be void:

Provided that the benefit of this sub-section shall not be available to the Central Government where the injury to such property is caused by any wrongful act or default of that Government.

7. Power to acquire requisitioned property.—(1) Where any property is subject to requisition, the Central Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Central Government has decided to acquire the property in pursuance of this section:

Provided that before issuing such notice, the Central Government shall call upon the owner of, or any other person who, in the opinion of the Central Government, may be interested in, such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Central Government may pass such orders as it deems fit.

(2) When a notice as aforesaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Central Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Central Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

8. Principles and method of determining compensation.—(1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;
- (c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;
- (d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;
- (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;
- (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;
- (g) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this section.

(2) The amount of compensation payable for the requisitioning of any property shall consist of—

- (a) a recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and
- (b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :—
 - (i) pecuniary loss due to requisitioning;
 - (ii) expenses on account of vacating the requisitioned premises;
 - (iii) expenses on account of reoccupying the premises upon release from requisition; and
 - (iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

(3) The compensation payable for the acquisition of any property under section 7 shall be—

- (a) the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or
- (b) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of requisition,

whichever is less.

9. Payment of compensation.—The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

10. Appeals from orders of requisitioning.—(1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 3 may, within twenty-one days from the date of service of the order, prefer an appeal to the Central Government:

Provided that the Central Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Central Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Central Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Central Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

11. Appeals from awards in respect of compensation.—Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

12. Competent authority and arbitrator to have certain powers of civil courts.—The competent authority and the arbitrator appointed under section 8, while holding an inquiry or, as the case may be, arbitration proceedings under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for examination of witnesses.

13. Power to obtain information.—The Central Government or the competent authority may, with a view to carrying out the purposes of section 3 or section 6, or section 7 or section 8, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

14. Power to enter and inspect.—The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

15. Service of notice and orders.—(1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette; and

(b) in the case of any notice or order affecting an individual, corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;

(iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and where possible, by fixing a copy thereof on any conspicuous part of the property to which it relates.

16. Easement not to be disturbed.—No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. Delegation of powers.—(1) The Central Government may, by notification in the Official Gazette, direct that the powers exercisable by it or

under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government or the State Government.

(2) All notifications issued under sub-section (1) shall be laid, as soon as may be, before Parliament.

18. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Central Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

19. Bar of jurisdiction of civil courts.—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

20. Penalty for offences.—Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

21. Certain persons to be public servants.—The competent authority every arbitrator and every officer empowered by the Central Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

22. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

- (a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6;
- (b) the procedure to be followed in arbitration proceedings and appeal under this Act;
- (c) the principles to be followed in determining the amount of compensation and method of payment of such compensation;
- (d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;
- (e) the manner of service of notice and orders;
- (f) any other matter which has to be, or may be, prescribed.

(3) All rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament.

23. Validation of certain requisitions and acquisitions.—(1) All immovable property which purports to have been requisitioned by a State Government for any public purpose, being a purpose of the Union, under any Provincial or State Act and which, immediately before the 25th day of January, 1952, was used or occupied by the Central Government or by an officer or authority subordinate to that Government shall, as from that date, be deemed to be property duly requisitioned under section 3 of this Act, and every such requisition shall, notwithstanding any judgment, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had been duly made by a competent authority under this Act, and all the provisions of this Act shall apply accordingly:

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the 25th day of January, 1952, and in force immediately before that date, shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after that date.

(2) Every acquisition of immovable property purporting to have been made before the commencement of this Act by a State Government for any public purpose, being a purpose of the Union, under any enactment for the time being in force in that State and which, immediately before such commencement, was used or occupied by the Central Government or by an officer or authority subordinate to that Government shall, notwithstanding any defect in, or invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from the date of the acquisition.

24. Repeals and savings.—(1) The Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), the Delhi Premises (Requisition and Eviction) Act, 1947 (XLIX of 1947), and the Requisitioning and Acquisition of Immovable Property Ordinance, 1952 (III of 1952) are hereby repealed.

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of either of the said Acts or the said Ordinance shall, on the commencement of this Act, be deemed to be property requisitioned under section 3 of this Act, and all the provisions of this Act shall apply accordingly:

Provided that—

- (a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement; •
- (b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under either of the said Acts or the said Ordinance shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

25. Amendment of Act XXVII of 1950.—The following amendments shall be made in the Government Premises (Eviction) Act, 1950, namely:—

(1) In sub-section (2) of section 1, for the words “the States of Jammu and Kashmir and Delhi”, the words “the State of Jammu and Kashmir” shall be substituted.

(2) For clause (b) of section 2, the following clause shall be substituted, namely:—

“(b) ‘Government premises’ means any premises or land belonging to, or taken on lease or requisitioned by, the Central Government or requisitioned by the competent authority under the Requisitioning and Acquisition of Immovable Property Act, 1952, and, in relation to the State of Delhi, includes any premises or land belonging to any municipality in Delhi or any land belonging to the Improvement Trust, Delhi, whether such land is in the possession of, or leased out by, the Improvement Trust.

(3) In section 3, for the words “the premises” wherever they occur, the words “the Government premises” shall be substituted.

(4) For section 4, the following section shall be substituted, namely:—

“4. *Power to recover rent or damages in respect of Government premises as arrears of land revenue.*—(1) Subject to any rules that may be made in this behalf by the Central Government, by notification in the Official Gazette, any sum due by way of rent in respect of any Government premises which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

(2) Where any person is in unauthorised occupation of any Government premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the Government premises as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time as may be specified in the notice.

(3) If any person refuses or fails to pay the damage within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue.”

(5) In sub-section (2) of section 10—

(i) after clause (b), the following clause shall be inserted, namely:—

“(bb) the circumstances under which rent in respect of Government premises may be recovered as an arrear of land revenue;”;

(ii) to clause (c), the words “and the matters which may be taken into account in assessing such damages” shall be inserted;

(iii) after clause (c), the following clause shall be inserted, namely:—

“(cc) the manner of service of any notice under this Act;”.

ACT No. XXXI OF 1952.

**THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS
ACT, 1952.**

An Act to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India.

BE it enacted by Parliament as follows:—

PART I.

PRELIMINARY.

1. Short title.—This Act may be called the Presidential and Vice-Presidential Elections Act, 1952.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “article” means an article of the Constitution;
- (b) “election” means a Presidential election or Vice-Presidential election;
- (c) “Election Commission” means the Election Commission appointed by the President under article 324;
- (d) “elector”, in relation to a Presidential election, means a member of the electoral college referred to in article 54, and in relation to a Vice-Presidential election, means a member of either House of Parliament;
- (e) “prescribed” means prescribed by rules made under this Act;
- (f) “Presidential election” means an election to fill the office of the President of India;
- (g) “Returning Officer” includes an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 3;
- (h) “Vice-Presidential election” means an election to fill the office of the Vice-President of India.

PART II.

CONDUCT OF PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS.

3. Returning Officer and his assistants.—(1) For the purposes of each election the Election Commission shall, in consultation with the Central Government, appoint a Returning Officer who shall have his office in New Delhi and may also appoint one or more Assistant Returning Officers.

(2) Subject to rules made under this Act, every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer.

4. Appointment of dates for nominations, etc.—(1) The Election Commission shall, by notification in the Official Gazette, appoint for every election—

- (a) the last date for making nominations which shall be a date not later than the fourteenth day and not earlier than the eighth day after the date of publication of the notification under this sub-section;

- (b) a date for the scrutiny of nominations which shall be a date no later than the third day after the last date for making nominations;
- (c) the last date for the withdrawal of candidatures which shall be the third day after the date for the scrutiny of nominations;
- (d) the date on which a poll shall, if necessary, be taken, which shall be a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures.

(2) In the case of the first Presidential and Vice-Presidential elections the notifications under sub-section (1) shall be issued as soon as may be after both Houses of Parliament have been constituted.

(3) In the case of an election to fill a vacancy caused by the expiration of the term of office of the President or Vice-President, the notification under sub-section (1) shall be issued on, or as soon as conveniently may be, after the sixtieth day before the expiration of the term of office of the outgoing President or Vice-President, as the case may be, and the date shall be so appointed under the said sub-section that the election will be completed at such time as will enable the President or the Vice-President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing President or Vice-President, as the case may be.

(4) In the case of an election to fill a vacancy in the office of President or Vice-President occurring by reason of his death, resignation or removal or otherwise, the notification under sub-section (1) shall be issued as soon as may be after the occurrence of such vacancy.

5. Nomination of candidates.—(1) Any person may be nominated as candidate for election to the office of President or Vice-President if he is qualified to be elected to that office under the Constitution.

(2) Each candidate shall be nominated by a nomination paper complete in the prescribed form and subscribed by the candidate himself as assent to the nomination and by two electors as proposer and seconder.

6. Withdrawal of candidature.—(1) Any candidate may withdraw his candidature by a notice in writing in the prescribed form subscribed by him and delivered before three o'clock in the afternoon on the date fixed under clause (c) of sub-section (1) of section 4, to the Returning Officer either by such candidate in person or by his proposer or seconder who has been authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

7. Death of candidate before poll.—If a candidate, whose nomination has been made and is found to be in order on scrutiny, dies after the time fixed for nomination and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermind the poll and report the fact to the Election Commission, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll:

Provided further that no person who has under sub-section (1) of section 6 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

8. Procedure in contested and uncontested elections.—If after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 6—

(a) there is only one candidate who has been validly nominated and has not withdrawn his candidature in the manner and within the time specified in that sub-section, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of President or Vice-President, as the case may be;

(b) the number of candidates who have been duly nominated but have not so withdrawn their candidatures exceeds one, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken;

(c) there is no candidate who has been duly nominated and has not so withdrawn his candidature, the Returning Officer shall report the fact to the Election Commission and thereafter all the proceedings in relation to the election shall be commenced afresh and for that purpose the Election Commission shall cancel the notification issued under sub-section (1) of section 4 in respect of such election and issue another notification under that sub-section appointing the dates referred to in that sub-section for the purposes of such fresh election.

9. Manner of voting at elections.—At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

10. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate and one representative of each candidate authorised in writing by the candidate, shall have a right to be present at the time of counting.

11. Declaration of results.—When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

12. Report of the result.—As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the Central Government and the Election Commission, and the Central Government shall cause to be published in the Official Gazette the declaration containing the name of the person elected to the office of President or Vice-President, as the case may be.

PART III.

DISPUTES REGARDING ELECTIONS.

13. Definitions.—In this Part, unless the context otherwise requires—

- (a) “candidate” means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;
- (b) “costs” means all costs, charges and expenses of, or incidental to, a trial of an election petition;
- (c) “returned candidate” means a candidate whose name has been published under section 12 as duly elected.

14. Election petitions.—(1) No election shall be called in question except by an election petition presented to the Supreme Court in accordance with the provisions of this Part and of the rules made by the Supreme Court under article 145.

(2) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 to the Supreme Court by any candidate at such election or by ten or more electors joined together as petitioners.

(3) Any such petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12 but not later than thirty days from the date of such publication.

15. Form of petitions, etc., and procedure.—Subject to the provisions of this Part, rules made by the Supreme Court under article 145 may regulate the form of election petitions, the manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, and may require security to be given for costs.

16. Relief that may be claimed by the petitioner.—A petitioner may claim either of the following declarations:—

- (a) that the election of the returned candidate is void;
- (b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

17. Orders of the Supreme Court.—(1) At the conclusion of the trial of the election petition, the Supreme Court shall make an order—

- (a) dismissing the election petition; or
- (b) declaring the election of the returned candidate to be void; or
- (c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) At the time of making an order under sub-section (1), the Supreme Court shall also make an order fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

18. Grounds for declaring the election of a returned candidate to be void.—(1) If the Supreme Court is of opinion—

- (a) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the connivance of the returned candidate; or
- (b) that the result of the election has been materially affected—
 - (i) by reason that the offence of bribery or undue influence at the election has been committed by any person who is neither the returned candidate nor a person acting with his connivance, or
 - (ii) by the improper reception or refusal of a vote, or
 - (iii) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act; or
- (c) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate or of any other candidate who has not withdrawn his candidature has been wrongly accepted;

the Supreme Court shall declare the election of the returned candidate to be void.

(2) For the purposes of this section, the offences of bribery and undue influence at an election have the same meaning as in Chapter IX-A of the Indian Penal Code (Act XLV of 1860).

19. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected:

Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

20. Transmission of orders to the Central Government and its publication.—The Supreme Court shall, after announcing the orders made under section 17, send a copy thereof to the Central Government, and on receipt of such copy the Central Government shall forthwith cause the order to be published in the Official Gazette.

PART IV.

MISCELLANEOUS.

21. Power to make rules.—(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the maintenance of a list of members of the electoral college referred to in article 54 with their addresses corrected up to date for the purposes of Presidential elections;
- (b) the maintenance of a list of members of both Houses of Parliament with their addresses corrected up to date for the purposes of Vice-Presidential elections;
- (c) the powers and duties of a Returning Officer and the performance by any officer appointed to assist the Returning Officer of any function of the Returning Officer;
- (d) the form and manner in which nominations may be made and the procedure to be followed in respect of the presentation of nomination papers;
- (e) the scrutiny of nominations and, in particular, the manner in which such scrutiny shall be conducted and the conditions and circumstances under which any person may be present or may enter objections thereto;
- (f) the publication of a list of valid nominations;
- (g) the place and hours of polling, the manner in which votes are to be given and the procedure as to voting to be followed at elections;
- (h) the scrutiny and counting of votes including cases in which a re-count of the votes may be made before the declaration of the result of the election;
- (i) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;
- (j) any other matter required to be prescribed by this Act.

22. Maintenance of secrecy of voting.—(1) Every officer, clerk or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

23. Jurisdiction of civil courts barred.—Save as provided in Part III, no civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

ACT No. XXXII OF 1952.**THE CONTEMPT OF COURTS ACT, 1952.**

An Act to define and limit the powers of certain courts in punishing contempts of courts.

Be it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Contempt of Courts Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definition.—In this Act, “High Court” means the High Court for a Part A State or a Part B State, and includes the Court of the Judicial Commissioner in a Part C State.

3. Power of High Court to punish contempts of subordinate courts.—
(1) Subject to the provisions of sub-section (2), every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself.

(2) No High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (Act XLV of 1860).

4. Limit of punishment for contempt of court.—Save as otherwise expressly provided by any law for the time being in force, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court:

Provided further that notwithstanding anything elsewhere contained in any law for the time being in force, no High Court shall impose a sentence in excess of that specified in this section for any contempt either in respect of itself or of a court subordinate to it.

5. Power of High Court to try offences committed or offenders found outside jurisdiction.—A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction and whether the person alleged to be guilty of the contempt, is within or outside such limits.

6. Repeals and savings.—(1) The Contempt of Courts Act, 1926 (XII of 1926), and the enactments specified in the Schedule are hereby repealed.

(2) Section 6 of the General Clauses Act, 1897 (X of 1897), shall apply to the repeal of any of the laws specified in the Schedule as it applies to the repeal of the Contempt of Courts Act, 1926 (XII of 1926).

THE SCHEDULE.

(See section 6.)

<i>Short title and description of enactment.</i>	<i>Extent of repeal.</i>
1. The Contempt Courts Act, IV of 1855F., as in force in the State of Hyderabad.	The whole.
2. The Indore Contempt of Courts Act No. V of 1930, as in force in the State of Madhya Bharat.	The whole.
3. The Contempt of Courts Act, Gwalior State, Samvat 2001, as in force in the State of Madhya Bharat.	The whole.
4. The Contempt of Courts Act, 1930 (XI of 1930), as in force in the State of Mysore.	The whole.
5. The Contempt of Courts Act, S. 1991 (V of S. 1991), as in force in the Patiala and East Punjab States Union.	The whole.
6. The Patiala and East Punjab States Union Judicature Ordinance, S. 2005 (X of S. 2005).	Section 33.
7. The Contempt of Courts Act, 1926 (XII of 1926), as in force in the State of Rajasthan before the commencement of this Act.	The whole.
8. The Contempt of Courts Act, 1926 (XII of 1926), as in force in the State of Saurashtra before the commencement of this Act.	The whole.
9. The High Court of Judicature Saurashtra State Ordinance, 1948 (Saurashtra Ordinance II of 1948).	Section 31.
10. The Cochin Contempt of Courts Act (XXXII of 1111), as in force in the State of Travancore-Cochin.	The whole.

ACT NO. XXXIII OF 1952.

THE TERRITORIAL ARMY (AMENDMENT) ACT, 1952.

An Act further to amend the Territorial Army Act, 1948.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Territorial Army (Amendment) Act, 1952.

2. Insertion of new sections 7A and 7B in Act LVI of 1948.—After section 7 of the Territorial Army Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

"7A. Reinstatement in civil employ of persons required to perform military service.—(1) It shall be the duty of every employer by whom a person who is required to perform military service under section 7 was employed to reinstate him in his employment on the termination of the military service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to

be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

- (a) exempting the employer from the provisions of this section, or
 - (b) requiring him to re-employ such person on such terms as he thinks suitable, or
 - (c) requiring him to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.
- (2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.
- (3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of his military service.
- (4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually required to perform military service under section 7, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of orders requiring him to perform military service under this Act.

7B *Preservation of certain rights of persons required to perform military service.*—When any person required to perform military service under section 7 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in military service and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed."

3. Amendment of section 14, Act LVI of 1948.—In sub-section (2) of section 14 of the principal Act, after clause (d), the following clauses shall be inserted, namely :—

- "(dd) specify the authority for the purpose of the proviso to sub-section (1) of section 7A and the manner in which any inquiry may be held by him;
- (ddd) define the rights under section 7B;".

ACT No. XXXIV OF 1952.**THE PREVENTIVE DETENTION (AMENDMENT) ACT, 1952.**

An Act further to amend the Preventive Detention Act, 1950.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Preventive Detention (Amendment) Act, 1952.

2. Amendment of section 1, Act IV of 1950.—In sub-section (3) of section 1 of the Preventive Detention Act, 1950 (hereinafter referred to as the principal Act), for the word "April" the word "October" shall be substituted.

3. Validity and duration of detention in certain cases.—Every detention order confirmed under section 11 of the principal Act and in force immediately before the commencement of this Act shall have effect as if it had been confirmed under the provisions of the principal Act as amended by this Act; and accordingly, where the period of detention is either not specified in such detention order or specified (by whatever form of words) to be for the duration or until the expiry of the principal Act or until the 31st day of March, 1952, such detention order shall continue to remain in force for so long as the principal Act is in force, but without prejudice to the power of the appropriate Government to revoke or modify it at any time.

K. V. K. SUNDARAM, Secy.

registered No. C207

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THURSDAY, APRIL 10, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on 29th February, 1952 and is hereby published for general information:—

ACT NO. XI OF 1952.

THE BOMBAY PORT TRUST (AMENDMENT) ACT, 1952.

An Act further to amend the Bombay Port Trust Act, 1879.
Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Bombay Port Trust (Amendment) Act, 1952.

2. Amendment of section 5, Bombay Act VI of 1879.—For clauses (e) and (f) of sub-section (2) of section 5 of the Bombay Port Trust Act, 1879, the following clauses shall be substituted, namely:—

“(e) the General Manager, Central Railway, *ex officio*;
(f) the General Manager, Western Railway, *ex officio*;”.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 4th March, 1952, and are hereby published for general information:—

ACT NO. XII OF 1952.

THE COAL MINES (CONSERVATION AND SAFETY) ACT, 1952.

An Act to provide for the conservation of coal and make further provision for safety in coal mines.

Be it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Coal Mines (Conservation and Safety) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Declaration as to expediency of control by Central Government. It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of coal mines to the extent hereinafter provided.

3. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "Board" means the Coal Board established under section 4;
- (b) "blending" means the process of intimately mixing different varieties of coal so as to provide a mixture which on carbonisation results in coke, which, in the opinion of the Board, is suitable for being used in metallurgical industries, particularly in iron and steel industries;
- (c) "coal" includes coke in all its forms;
- (d) "coking coal" means such type of coal from which on carbonisation coke suitable, in the opinion of the Board, for being used in metallurgical industries, particularly in iron and steel industries, can be prepared;
- (e) "Chief Inspector" and "Inspector" mean the persons respectively appointed as the Chief Inspector of Mines and Inspector of Mines under sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923) and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising their powers under this Act or the rules made thereunder;
- (f) "Fund" means the Coal Mines Safety and Conservation Fund constituted under section 12;
- (g) "India" means the territory of India excluding the State of Jammu and Kashmir;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "soft coke" means all coke which is unsuitable for being used in metallurgical industries, and "hard coke" means all coke which is not soft coke;
- (j) "stowing" means the operation of filling with sand or any other material or with both spaces left under-ground in a coal mine by the extraction of coal;
- (k) "washing" means such a process or a combination of processes as may be approved in this behalf by the Board by which the whole or any part of the shale and mineral matter found in the coal is removed therefrom;
- (l) "agent", "mine" and "owner" have the meanings respectively assigned to them in section 3 of the Indian Mines Act, 1923 (IV of 1923).

4. Establishment of the Board.—(1) There shall be established a Board, to be called the Coal Board, and such Board shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The Board shall consist of a Chairman and such number of other members, not exceeding six, as the Central Government may think fit to appoint and the members (including the Chairman) shall hold office during

the pleasure of the Central Government for any period not exceeding five years and shall be eligible for re-appointment:

Provided that the Chairman or any other member of the Board may resign his office by giving notice in writing to the Central Government and all, on such resignation being accepted by that Government, be deemed to have vacated his office.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members (including the Chairman) any defect in the constitution thereof.

5. Functions of the Board.—(1) The Board may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and discharge such duties as may be assigned to it by or under this Act.

(2) The Central Government may, by general or special order, delegate to the Board, subject to such conditions and limitations (if any) as may be specified in the order, such of its powers and duties under this Act or under any other law for the time being in force as it may deem necessary for effectively dealing with problems relating to safety in coal mines or conservation of coal and matters connected therewith or incidental thereto.

6. Powers of the Board in executing operations.—(1) If in the opinion of the Board, it is necessary or desirable that any measures, including stowing, required in furtherance of the objects of this Act should be undertaken directly by the Board, the Board may execute or cause to be executed such measures under its own supervision.

(2) For the purposes of this section, the Board shall have the right for itself and all persons employed in the execution of any work undertaken under this section to enter upon any property in which the work has to be done, and to do therein all things necessary for the execution of the work.

(3) No person shall obstruct or interfere with the execution of any work undertaken under this section and no person shall remove or tamper with any plant or machinery or any stowing or other materials used in the execution of such work.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

7. Powers of Central Government in respect of safety in coal mines and conservation of coal.—(1) The Central Government may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and take or cause to be taken all such measures as it may deem necessary or proper or as may be prescribed.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such measures as it may think necessary for the purpose of maintenance of safety in coal mines or for conservation of coal, including—

(a) in any coal mine, stowing for safety; or

(b) without prejudice to any order under clause (a), in the case of any coal mine producing coking coal or producing coal which on beneficiation is likely to yield coking coal or producing coal suitable for blending, stowing for conservation; or

(c) washing of coal with a view to beneficiating and reducing the ash contents of coal and improving its coking qualities.

8. Imposition of excise duties.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected—

- (a) on all coal raised and despatched, and on all coke manufactured and despatched, from the collieries in India, such duty of excise not exceeding one rupee per ton as may be fixed from time to time by the Central Government by notification in the Official Gazette, and different rates of duty may be levied on different grades or descriptions of coal or coke:

Provided that the Central Government may, by general or specific order, exempt any special grade or grades or description of coal or coke from the levy of such duty of excise;

- (b) on all coking coal raised and despatched from the collieries in India, such additional duty of excise not exceeding five rupees per ton in the case of coal of Selected Grade A or Selected Grade B, and not exceeding two rupees per ton in the case of coal of Grade C, as may be fixed from time to time by the Central Government by notification in the Official Gazette.

Explanation.—Coal of Selected Grade A, Selected Grade B and Grade C means coal graded as such under the Colliery Control Order, 1945.

(2) Where coking coal, in respect of which an additional duty of excise has been levied and collected under clause (b) of sub-section (1), is despatched to any person for use in India and—

- (a) the use of coking coal is, in the opinion of the Central Government, essential for carrying on any industrial or other process in which such person is engaged; or
- (b) the despatch of the coking coal is made under the orders of the Coal Board, although it was not specifically indented for by such person;

then, the Central Government shall cause to be paid to that person a sum equivalent to the additional duty of excise so collected on the coking coal received and used by that person.

(3) All notifications issued under this section shall be laid, as soon as may be, before Parliament.

9. Imposition of customs duty.—During the period in which any duty of excise is being levied under section 8, the Central Government may, by notification in the Official Gazette, impose on all coal (including soft and hard coke) imported or brought into India from any place outside India, a duty of customs (which shall be in addition to any duty of customs for the time being leviable under any other law), at rates equivalent to the rates of duties of excise levied under section 8.

10. Collection of excise duties.—The duties of excise levied under section 8 shall be collected by such agencies and in such manner as may be prescribed.

11. Payment to the Coal Board.—The Central Government may, in each financial year, pay to the Board a sum not exceeding the net proceeds (determined in such manner as may be prescribed) of the duties of excise collected under section 8 during the preceding financial year.

12. Money received by the Board to be credited to the Fund.—(1) The sum referred to in section 11 and any other money received by the Board shall be credited to a Fund to be called the Coal Mines Safety and Conservation Fund which shall be applied by the Board, in such manner and subject to such conditions as may be prescribed, to—

- (a) meeting the expenses in connection with the administration of the Board and the furtherance of the objects of this Act;
- (b) the grant of stowing materials and other assistance for stowing operations to the owners, agents or managers of coal mines;
- (c) the execution of stowing and other operations in furtherance of the objects of this Act;
- (d) the prosecution of research work connected with safety in coal mines or conservation and utilisation of coal;
- (e) meeting the cost of administering the Fund and the expenses in connection with Advisory Committees;
- (f) the grant to State Governments, research organisations, local authorities and owners, agents or managers of coal mines of money in aid of any scheme approved by the Central Government in furtherance of the objects of this Act;
- (g) any other expenditure which the Central Government directs to be defrayed out of the Fund.

(2) The Board shall keep accounts of the Fund, and such accounts shall be examined and audited by the Comptroller and Auditor-General of India at such times and in such manner as he deems fit and the report of the Comptroller and Auditor-General of India shall be laid, as soon as may be, before Parliament.

13. Powers of Inspectors.—(1) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Act or of any rules and orders made hereunder are being complied with.

(2) The Chief Inspector or any Inspector may, with such assistants, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in respect of which assistance is being, or has been given under this Act, in order to ascertain the amount of sand or other materials used in stowing in the mine or to ensure that stowing or any other operation towards which assistance may be granted under this Act, has been, or is being, done effectively:

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine.

(3) Without prejudice to the provisions of section 19 of the Indian Mines Act, 1923 (IV of 1923), the Chief Inspector or any Inspector may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

- (a) the extraction or reduction of pillars in any part of the mine is likely to cause the crushing of pillars or the premature collapse of any part of the working or otherwise endanger human life or the mine, or
- (b) adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of any part of the mine or for restricting the area that might be affected by fire or flooding, as the case may be.

(4) The powers conferred on the Inspector under sub-sections (1), (2) and (3) may also be exercised by such officers of the Board suitably qualified in this behalf as the Central Government may, by notification in the *Official Gazette*, specify in this behalf.

14. Application of Act IV of 1923.—The provisions of sub-sections (3) to (6) (both inclusive) of section 19 of the Indian Mines Act, 1923 (IV of 1923), shall apply to an order made under sub-section (3) of section 13 of this Act as they apply to an order made under sub-section (2) of section 1 of that Act, and all the provisions of the Indian Mines Act, 1923 [except sub-section (1) of section 11 thereof], affecting committees appointed for the purposes of that Act or relating to the disposal of references made to such committees, shall apply, so far as may be, to a committee appointed to inquire into a reference under this Act and to the disposal of such reference.

Provided that the power conferred by the proviso to sub-section (6) of the said section 19 to suspend the operation of a requisition under sub-section (1) of that section shall include a power similarly to suspend the operation of an order made under sub-section (3) of section 13 of this Act.

15. Advisory Committees.—(1) The Central Government may, by notification in the *Official Gazette*, constitute one or more Advisory Committees consisting of such number of persons and on such terms and conditions as may be prescribed.

(2) It shall be the duty of the Advisory Committees to advise the Central Government or the Board in regard to any matter connected with the administration of the Act in respect of which their advice is sought by the Central Government, or, as the case may be, by the Board.

16. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Chairman or any other member of the Board or any officer thereof or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

17. Power to make rules.—(1) The Central Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the measures to be taken for the purpose of maintenance of safety in coal mines or for the conservation of coal;
- (b) the levy, collection and payment of the duties of excise and the imposition, collection and payment of the duty of customs;
- (c) the appointment and terms and conditions of service of the Chairman and other members of the Board;
- (d) the powers and functions of, and the conduct of business by the Board;
- (e) the determination of the net proceeds of the duties of excise for the purposes of section 11;
- (f) the manner in which, and the conditions subject to which, sums at the credit of the Coal Mines Safety and Conservation Fund may be applied;
- (g) the form in which the accounts of the Fund shall be kept;

-
- (h) the composition of any committee of inquiry which may be appointed to inquire into a reference arising out of an order passed under sub-section (3) of section 13, the technical qualifications to be possessed by persons nominated thereto, and the powers and duties of such committee;
 - (i) the composition of Advisory Committees, their functions, and the terms and conditions of service of members thereof;
 - (j) recruitment of officers and staff to be appointed by the Board;
 - (k) any other matter which has to be, or may be, prescribed.
- (3) Any rule made under the provisions of this Act may provide that the contravention thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.
- (4) All rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament.

18. Act to apply to Government coal mines.—This Act applies also to coal mines belonging to the Government.

19. Repeals and savings.—(1) The Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939) and the Coal Mines (Conservation and Safety) Ordinance, 1952 (I of 1952), are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any rules, notifications or orders made or issued) in the exercise of any power conferred by or under the said Act or Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

(3) As from the 8th day of January, 1952, all the moneys lying to the credit of the Coal Mines Stowing Fund under the Act hereby repealed shall be deemed to have been transferred to, and to vest in, the Board and to form part of the Coal Mines Safety and Conservation Fund.

ACT No. XIII OF 1952.

THE APPROPRIATION ACT, 1952.

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March, 1952.

BE it enacted by Parliament as follows:—

- 1. Short title.**—This Act may be called the Appropriation Act, 1952.
- 2. Issue of Rs. 83,23,53,000 out of the Consolidated Fund of India for the year 1951-52.**—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of ninety-three crores, twenty-three lakhs and fifty-three thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1952, in respect of the services specified in column 2 of the Schedule.

3. Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1952.

SCHEDULE.

(See sections 2 and 3.)

No. of Vote.	Services and purposes.	Sums not exceeding			Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.		
		Rs.	Rs.	Rs.	
1	Ministry of Commerce and Industry ..	3,25,000	..	3,25,000	
3	Commercial Intelligence and Statistics ..	50,000	..	50,000	
5	Indian Posts and Telegraphs Department (including working expenses).	..	3,70,000	3,70,000	
7	Overseas Communications Service ..	8,32,000	..	8,32,000	
10	Defence Services—Effective—Army ..	10,85,02,000	..	10,85,02,000	
18	Ministry of External Affairs ..	6,02,000	..	6,02,000	
19	Tribal Areas ..	14,42,000	..	14,42,000	
20	External Affairs ..	8,23,000	..	8,23,000	
22	Customs ..	11,37,000	..	11,37,000	
23	Union Excise Duties ..	2,03,14,000	..	2,03,14,000	
26	Stamps ..	4,06,000	14,000	4,20,000	
27	Payments to other Governments, Departments, etc.	8,27,000	..	8,27,000	
29	Joint Stock Companies ..	58,000	..	58,000	
30	Miscellaneous Departments ..	1,000	..	1,000	
31	Currency ..	23,38,000	28,000	23,66,000	
33	Superannuation Allowances and Pensions.	27,50,000	..	27,50,000	
34	Miscellaneous ..	24,33,000	..	24,33,000	
35	Grants-in-aid to States ..	25,00,000	..	25,00,000	
36	Miscellaneous Adjustments between the Union and State Governments.	20,000	..	20,000	
42	Survey of India ..	3,24,000	..	3,24,000	
43	Botanical Survey ..	11,000	..	11,000	
45	Agriculture ..	54,77,000	..	54,77,000	

1 No. of Vote.	2 Services and purposes.	Sums not exceeding		3 Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.	
46	Civil Veterinary Services	1,000	..	1,000
57	Ajmer	40,78,000	..	40,78,000
60	Broadcasting	1,22,000	..	1,22,000
64	Ministry of Natural Resources and Scientific Research.	48,000	..	48,000
73	Territorial and Political Pensions ..	..	14,41,000	14,41,000
74	Kutch	5,31,000	..	5,31,000
78	Vindhya Pradesh	7,46,000	..	7,46,000
79	Manipur	60,000	..	60,000
80	Tripura	1,06,000	..	1,06,000
81	Relations with States	2,11,000	..	2,11,000
84	Lighthouses and Lightships	1,50,000	..	1,50,000
87	Ministry of Works, Production and Supply	1,000	..	1,000
88	Supplies	32,43,000	..	32,43,000
91	Stationery and Printing	88,00,000	..	88,00,000
91-A	Stamps Cancelling and Printing Ink Manufacturing Factory.	2,90,000	..	2,90,000
	Charged—Staff, Household and Allowances of the President.	..	69,000	69,000
	Charged—Union Public Service Commission.	..	52,000	52,000
96	Defence Capital Outlay	3,18,15,000	..	3,18,15,000
98	Capital Outlay on Industrial Development.	1,000	..	1,000
101	Commututed Value of Pensions ..	59,51,000	..	59,51,000
103	Capital Outlay on the Schemes of Government Trading.	1,000	..	1,000
103-A	Transfer of the sale proceeds of American loan wheat to the Special Development Fund.	71,00,00,000	..	71,00,00,000
104	Capital Outlay on Development ..	1,30,52,000	..	1,30,52,000
105	Loans and Advances by Central Government.	..	..	..
	Total ..	93,03,79,000	19,74,000	93,23,53,000

ACT No. XIV OF 1952.**THE PUNJAB APPROPRIATION ACT, 1952.**

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Punjab for the service of the year ending on the 31st day of March, 1952.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Punjab Appropriation Act, 1952.

2. Issue of Rs. 6,21,42,110 out of the Consolidated Fund of the State of Punjab for the year 1951-52.—From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of six crores, twenty-one lakhs, forty-two thousand and one hundred and ten rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1952, in respect of the services specified in column 2 of the Schedule.

3. Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Punjab by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1952.

SCHEDULE.

(See sections 2 and 3.)

No. of Vote.	Services and purposes.	Sums not exceeding			Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.		
		Rs.	Rs.		
I.—SUPPLEMENTARY DEMANDS. EXPENDITURE CHARGED TO REVENUE.					
1	7.—Land Revenue	1,38,120	..	1,38,120	
2	8.—State Excise Duties	13,060	..	13,060	
3	9.—Stamps	12,680	..	12,680	
4	12.—Charges on account of Motor Vehicles Act	} 17,350	..	17,350	
13.—Other Taxes and Duties ..					
5	XVII.—Irrigation Working Expenses—				
	18.—Irrigation Expenditure financed from Ordinary Revenues	11,30,320	..	11,30,320	

No. of Vote.	Services and purposes.	3		
		Sums not exceeding		Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.	
		Rs.	Rs.	Rs.
6	19.—Construction of Irrigation Works financed from Ordinary Revenues ..	54,200	..	54,200
	22.—Interest on Debt and other Obligations ..	..	22,43,000	22,43,000
	23.—Appropriation for Reduction or Avoidance of Debt ..	..	35,23,100	35,23,100
	27.—Administration of Justice ..	..	2,76,080	2,76,080
7	29.—Police	4,90,500	..	4,90,500
8	41.—Veterinary	1,20,910	..	1,20,910
9	50.—Civil Works	10	21,000	21,010
10	Charges on Public Works Department, Buildings and Roads Establishment ..	43,900	..	43,900
11	52.—Interest on Capital Outlay on Electric- ity Schemes—			
	XLA.—Receipts from Multi-purpose River Schemes—Deduct—Working Expenses ..	7,76,440	..	7,76,440
	XLI.—Receipts from Electricity Schemes— Deduct—Working Expenses (other than Establishment). ..			
12	Charges on Electricity Establishment and Miscellaneous Expenditure ..	84,500	..	84,500
13	54.—Famine	2,34,540	..	2,34,540
14	55.—Superannuation Allowances and Pensions	9,12,490	..	9,12,490
15	57.—Miscellaneous	11,37,530	9,390	11,46,920
	Total—Expenditure charged to Revenue ..	51,66,550	60,72,570	1,12,39,120
	EXPENDITURE NOT CHARGED TO REVENUE.			
16	Advances not bearing interest—Advances Repayable	1,14,900	..	1,14,900
	Public Debt .. .. ..	..	5,00,00,000	5,00,00,000
17	68.—Construction of Irrigation Works ..	6,54,500	..	6,54,500
18	83.—Payments of Commuted Value of Pensions	1,33,510	..	1,33,510
	Total—Expenditure not charged to Revenue	9,02,910	5,00,00,000	5,09,02,910

1 No. of Vote.	2 Services and purposes.	3		
		Sums not exceeding		Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.	
		Rs.	Rs.	Rs.
II—TOKEN DEMANDS.				
EXPENDITURE CHARGED TO REVENUE				
19	25.—General Administration	10	..	10
20	47.—Miscellaneous Departments	10	..	10
21	37.—Education	10	..	10
22	38.—Medical	10	..	10
	39.—Public Health			
23	40.—Agriculture	10	..	10
Total—Expenditure charged to Revenue		50	..	50
EXPENDITURE NOT CHARGED TO REVENUE				
24	72.—Capital Outlay on Industrial Development	10	..	10
25	81.—Capital Account of Civil Works outside the Revenue Account	10	..	10
26	81-A.—Capital Outlay on Electricity Schemes (outside the Revenue Account)	10	..	10
Total—Expenditure not charged to Revenue		30	..	30
Grand Total ..		60,69,540	5,60,72,570	6,21,42,110

ACT No. XV OF 1952.**THE APPROPRIATION (RAILWAYS) ACT, 1952.**

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March, 1952, for the purposes of Railways.

Be it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Appropriation (Railways) Act, 1952.

2. Issue of Rs. 7,69,24,000 out of the Consolidated Fund of India for the year 1951-52.—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of seven crores, sixty-nine lakhs and twenty-four thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1952, in respect of the services relating to railways specified in column 2 of the Schedule.

3. Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1952.

SCHEDULE.

(See sections 2 and 3.)

1 No. of Vote.	2 Services and purposes.	3 Sums not exceeding		Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.	
		Rs.	Rs.	Rs.
4	Working Expenses—Administration ..	22,27,000	..	22,27,000
5	Working Expenses—Repairs and Maintenance.	1,47,07,000	..	1,47,07,000
6	Working Expenses—Operating Staff ..	41,14,000	..	41,14,000
7	Working Expenses—Operation (Fuel) ..	1,29,88,000	..	1,29,88,000
8	Working Expenses—Operation (other than Staff and Fuel).	1,42,38,000	..	1,42,38,000
9A	Working Expenses—Labour Welfare ..	22,27,000	..	22,27,000
17	Open Line Works—Replacements ..	2,64,13,000	..	2,64,13,000
	Grand Total ..	7,69,24,000	..	7,69,24,000

ACT NO. XVI OF 1952.

THE PUNJAB APPROPRIATION (VOTE ON ACCOUNT) ACT, 1952.

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Punjab for the service of the period of four months beginning on the 1st day of April, 1952.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Punjab Appropriation (Vote on Account) Act, 1952.

2. Withdrawal of Rs. 18,24,41,000 from and out of the Consolidated Fund of the State of Punjab for the year 1952-53.—From and out of the Consolidated Fund of the State of Punjab there may be withdrawn sums

not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eighteen crores, twenty-four lakhs and forty-one thousand rupees towards defraying the several charges which will come in course of payment during the period of four months beginning on the 1st day of April, 1952.

3. Appropriation.—The sums authorised to be withdrawn from and out of the Consolidated Fund by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said period.

SCHEDULE.

(See sections 2 and 3.)

No. of Vote.	Services and purposes.	Sums not exceeding			Total.	
		Voted by Parliament.	Charged on the Consoli- dated Fund.	Rs.		
		Rs.	Rs.			
1	7.—Land Revenue	16,08,000	..	16,08,000		
2	8.—State Excise Duties	2,57,000	..	2,57,000		
3	9.—Stamps	42,000	..	42,000		
4	10.—Forests	12,70,000	..	12,70,000		
5	11.—Registration	7,000	..	7,000		
6	12.—Charges on account of Motor Vehicles Acts	4,88,000	..	4,88,000		
	13.—Other Taxes and Duties ..					
	XVII.—Irrigation—Working Expenses					
7	17.—Interest on Irrigation Works for which Capital Accounts are kept	36,75,000	..	36,75,000		
	18.—Other Irrigation Expenditure financed from Ordinary Revenues					
8	Irrigation—Establishment Charges ..	31,72,000	..	31,72,000		
9	19.—Construction of Irrigation Works financed from Ordinary Revenues.	1,18,92,000	..	1,18,92,000		
	68.—Construction of Irrigation Works (Capital Expenditure)					
	22.—Interest on Debt and other Obligations					
	23.—Appropriation for Reduction of Avoidance of Debt .. ..	..	12,14,000	12,14,000	
10	25.—General Administration	49,15,000	2,35,000	51,50,000		
11	27.—Administration of Justice	10,27,000	3,11,000	13,38,000		

No. of Vote.	Services and purposes.	Sums not exceeding			Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.		
		Rs.	Rs.	Rs.	
12	28.—Jails and Convict Settlements ..	14,12,000	..	14,12,000	
13	29.—Police	86,30,000	..	86,30,000	
14	36.—Scientific Departments ..	1,87,000	..	1,87,000	
	47.—Miscellaneous Departments ..				
15	62.—Miscellaneous adjustments between the Central and Provincial Governments ..	55,77,000	..	55,77,000	
	37.—Education				
16	38.—Medical	22,09,000	..	22,09,000	
	39.—Public Health				
17	40.—Agriculture	15,30,000	..	15,30,000	
18	41.—Veterinary	6,80,000	..	6,80,000	
19	42.—Co-operation	4,79,000	..	4,79,000	
20	43.—Industries	7,00,000	..	7,00,000	
21	43-A.—Capital Outlay on Industrial Development	30,000	..	30,000	
	72.—Capital Outlay on Industrial Development				
22	50.—Civil Works	20,00,000	30,000	20,30,000	
23	Buildings and Roads—Establishment Charges	10,00,000	..	10,00,000	
24	52.—Interest on Capital Outlay on Electricity Schemes	7,36,000	..	7,36,000	
	XLI.—Electricity Schemes—Working Expenses				
25	XLA.—Multi-purpose River Schemes—Working Expenses	8,00,000	..	8,00,000	
	Charges on Electricity Establishment and Miscellaneous Expenditure				
26	80-A.—Multi-purpose River Schemes ..	4,50,10,000	..	4,50,10,000	
27	50-A.—Capital Outlay on Civil Works met out of Extraordinary Receipts	73,63,000	..	73,63,000	
	81.—Capital Account of Civil Works outside the Revenue Account ..				

1 No. of Vote.	2 Services and purposes.	3		
		Sums not exceeding	Voted by Parliament.	Charged on the Consoli- dated Fund.
	53.—Capital Outlay on Electricity Schemes met out of Revenue	Rs.	Rs.	Rs.
28	81.A.—Capital Outlay on Electricity Schemes (outside the Revenue Account)	23,85,000	..	23,85,000
29	54.—Famine	40,000	..	40,000
30	54.A.—Territorial and Political Pensions			
	54.B.—Privy Purses and Allowances of Indian Rulers	16,61,000	39,000	17,00,000
	55.—Superannuation Allowances and Pensions			
31	55.A.—Commutation of Pensions financed from Ordinary Revenues	1,58,000	42,000	2,00,000
	83.—Payments of Commuted Value of Pensions (Capital Expenditure)			
32	56.—Stationery and Printing	12,25,000	..	12,25,000
33	57.—Miscellaneous	53,34,000	..	53,34,000
34	63.—Extraordinary Charges	14,000	..	14,000
35	64.C.—Prepartition Payments	6,66,000	..	6,66,000
36	71.—Capital Outlay on Schemes of Agricultural Improvement and Research	3,00,000	..	3,00,000
37	82.—Capital Account of Other Provincial Works outside the Revenue Account	3,68,000	..	3,68,000
38	85.A.—Capital Outlay on Provincial Schemes of State Trading	5,91,53,000	..	5,91,53,000
39	85.B.—Transfer to the Contingency Fund Advances not bearing interest—Advances Repayable .. ..	..	..	..
40	Loans and Advances bearing interest—Loans to Municipalities, Advances to Cultivators, etc.	25,09,000	..	25,09,000
	Loans to Government Servants			
	Public Debt .. .. ..	..	..	..
GRAND TOTAL ..		18,05,70,000	18,71,000	18,24,41,000

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.**Ministry of Law.**

The following Acts of the Parliament of India received the assent of the resident on the 4th March, 1952, and are hereby published for general information:—

ACT No. XVII OF 1952.**THE CONTROL OF SHIPPING (AMENDMENT) ACT, 1952.**

An Act further to amend the Control of Shipping Act, 1947.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Control of Shipping (Amendment) Act, 1952.

2. Amendment of section 1, Act XXVI of 1947.—In sub-section (3) of section 1 of the Control of Shipping Act, 1947 (XXVI of 1947), for the figures "1952" the figures "1954" shall be substituted.

ACT No. XVIII OF 1952.**THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1952.**

An Act further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Industrial Disputes (Amendment) Act, 1952.

2. Amendment of section 2, Act XIV of 1947.—To clause (i) of section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), the following proviso shall be added, namely:—

"Provided that no person shall cease to be independent by reason only of the fact that he is a shareholder of an incorporated company which is connected with, or likely to be affected by, such industrial dispute; but in such a case, he shall disclose to the appropriate Government the nature and extent of the shares held by him in such company."

3. Amendment of section 10, Act XIV of 1947.—In section 10 of the principal Act,—

(a) in sub-section (1)—

(i) for the words "If any industrial dispute exists or is apprehended, the appropriate Government may" the words "where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time" shall be substituted;

(ii) in clause (c), after the words "refer the dispute" the words "or any matter appearing to be connected with, or relevant to, the dispute" shall be inserted; and

(b) after sub-section (3), the following sub-sections shall be inserted namely:—

"(4) Where in an order referring an industrial dispute to a Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Tribunal shall confine its adjudication to those points and matters incidental thereto.

(5) Where a dispute concerning any establishment or establishments has been, or is to be, referred to a Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group or class of establishment."

4. Amendment of section 20, Act XIV of 1947.—In sub-section (3) of section 20 of the principal Act, for the words, figures and brackets "where the award is published by the appropriate Government under section 17 or where an award has been laid before the Legislative Assembly or the House of the People under the proviso to sub-section (2) of section 15, when the resolution of the Legislative Assembly or the House of the People thereon is passed", the words, figures and letter "on the date on which the award becomes enforceable under section 17A" shall be substituted.

5. Repeal of Ordinance IX of 1951.—(1) The Industrial Disputes (Amendment) Ordinance, 1951 (IX of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

ACT No. XIX OF 1952.

THE EMPLOYEES' PROVIDENT FUNDS ACT, 1952.

An Act to provide for the institution of provident funds for employees in factories and other establishments.

Be it enacted by Parliament as follows:—

1. Short title, extent and application.—(1) This Act may be called the Employees' Provident Funds Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Subject to the provisions contained in section 16, it applies in the first instance to all factories engaged in any industry specified in Schedule I in which fifty or more persons are employed, but the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to all factories employing such number of persons less than fifty as may be specified in the notification and engaged in any such industry.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) in relation to a factory engaged in a controlled industry or in an industry connected with a mine or an oilfield, the Central Government, and

(ii) in relation to any other factory, the State Government;

(b) “basic wages” means all emoluments which are earned by an employee while on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—

(i) the cash value of any food concession;

(ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

(c) “contribution” means a contribution payable in respect of a member under a Scheme;

(d) “controlled industry” means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;

(e) “employer” in relation to a factory means the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (LXIII of 1948), the person so named;

(f) “employee” means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of a factory, and who gets his wages directly or indirectly from the employer, and includes any person employed by or through a contractor in or in connection with the work of the factory;

(g) “factory” means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power;

(h) “Fund” means the provident fund established under a Scheme;

(i) “industry” means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4;

(j) “member” means a member of the Fund;

(k) “occupier of a factory” means the person who has ultimate control over the affairs of the factory, and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(l) “Scheme” means a Scheme framed under this Act.

3. Power to apply Act to establishment which has a common provident fund with a factory.—Where immediately before this Act becomes applicable to a factory there is in existence a provident fund which is common to the employees employed in a factory to which this Act applies and employees in any other establishment, the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall also apply to that establishment, and thereupon the establishment shall be deemed to be a factory for all the purposes of this Act.

4. Power to add to Schedule I.—(1) The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a provident fund scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purposes of this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

5. Employees' Provident Fund Schemes.—The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the factories or class of factories to which the said Scheme shall apply.

6. Contributions and matters which may be provided for in Schemes.—(1) The contribution which shall be paid by the employer to the Fund shall be six and a quarter per cent. of the basic wages and the dearness allowance for the time being payable to each of the employees, and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires and if the Scheme makes provision therefor, be an amount not exceeding eight and one-third per cent. of his basic wages and dearness allowance:

Provided that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee.

Explanation.—For the purposes of this sub-section, dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

(2) Subject to the provisions contained in sub-section (1), any Scheme may provide for all or any of the matters specified in Schedule II.

7. Modification of Scheme.—(1) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme framed under this Act.

(2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

8. Mode of recovery of moneys due from employers.—Any amount due from an employer in respect of any contribution payable under this Act or towards the cost of administering the Fund payable by him under any Scheme may, if it is in arrear, be recovered by the appropriate Government in the same manner as an arrear of land revenue.

9. Fund to be recognised under Act XI of 1922.—For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IXA of that Act.

10. Protection against attachment.—(1) The amount standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member, and neither the official assignee appointed under the Presidency-towns Insolvency Act, 1909 (III of 1909), nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of any member in the Fund at the time of his death and payable to his nominee under the Scheme shall, subject to any deduction authorised by the said Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the member.

11. Priority of payment of contributions over other debts.—The amount due in respect of any contribution under this Act or under any Scheme and charges incurred in respect of the administration of the Fund under any Scheme shall, where the liability therefor has accrued before the person liable is adjudicated insolvent, or, in the case of a company ordered to be wound up, before the date of such order, be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (V of 1920) or under section 230 of the Indian Companies Act, 1913 (VII of 1913) are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

12. Employer not to reduce wages.—No employer shall, by reason only of his liability for any contribution payable under this Act, reduce, whether directly or indirectly, the wages of any employee, or, except as provided by any Scheme, discontinue or reduce any benefit (similar to any benefit conferred by this Act or by any Scheme) to which the employee is entitled under the terms of his employment.

13. Inspectors.—(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act or of any Scheme, and may define their jurisdiction.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of inquiring into the correctness of any information furnished in connection with this Act or with any Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of any Scheme have been complied with—

- (a) require an employer to furnish such information as he may consider necessary in relation to the Scheme;
- (b) at any reasonable time enter any factory or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the factory;

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the factory or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the factory;

(d) make copies of, or take extracts from, any book, register or other documents maintained in relation to the factory;

(e) exercise such other powers as the Scheme may provide.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

14. Penalties.—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or under any Scheme or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) A Scheme framed under this Act may provide that any person who contravenes, or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) No court shall take cognizance of any offence punishable under this Act or under any Scheme except on a report in writing of the facts constituting such offence made with the previous sanction of such authority as may be specified in this behalf by the appropriate Government, by an Inspector appointed under section 13.

15. Special provisions relating to existing provident funds.—(1) Every employee who is a subscriber to any provident fund established by the employer and in existence on the 15th day of November, 1951, shall, pending the framing of a Scheme in respect of the factory in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Act had not been passed.

(2) On the framing of any such Scheme as is referred to in sub-section (1), the accumulations standing to the credit of the employees in the provident fund shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Scheme, be transferred to the Fund established under the Scheme and shall be credited to the accounts of the employees entitled thereto in the Fund.

16. Act not to apply to factories belonging to Government or local authority and also to infant factories.—This Act shall not apply to—

(a) any factory belonging to the Government or a local authority, and

(b) any other factory, established whether before or after the commencement of this Act, unless three years have elapsed from its establishment.

17. Power to exempt.—The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt from the operation of this Act, or of any scheme—

- (a) any factory to which this Act applies if the rules of its provident fund with respect to contributions are in conformity with, or are more favourable to the employees therein than, those specified in this Act, and, if, in the opinion of the appropriate Government, the employees are otherwise in enjoyment of provident fund benefits generally which are on the whole not less favourable to the employees than the benefits provided under this Act or under any scheme in relation to employees in any factory of a similar character;

Explanation.—The following conditions shall be deemed to be always included in the conditions which may be specified in a notification under clause (a), namely:—

- (i) the amount of accumulations in the provident fund shall be invested in such manner as the Central Government may direct;
- (ii) the amount of accumulations to the credit of an employee in the provident fund shall, where he leaves his employment and obtains re-employment in another factory to which this Act applies within such time as may be specified in this behalf by the Central Government, be transferred to the credit of his account in the Fund established under the Scheme applicable to the factory;
- (b) any class of persons employed in any factory, if the Central Government is of opinion that such class of persons is entitled to benefits in the nature of old age pension or gratuity or both, benefits which are on the whole not less favourable to such persons than the benefits provided under this Act or under any Scheme in relation to persons employed in any factory of a similar character:

Provided that no notification under clause (b) shall be issued unless the Central Government is satisfied that the majority of persons so employed desire to continue to be entitled to such benefits:

Provided further that it shall be a condition of every such notification that it shall not apply to any person who has been employed in the factory for not less than ten years and who by a declaration in writing opts for the benefits to which he was entitled before the date of the notification.

18. Protection for acts done in good faith.—No suit or other legal proceeding shall lie against an Inspector or any other person in respect of anything which is in good faith done or intended to be done under this Act or under any Scheme.

19. Delegation of powers to the State Government.—The Central Government may, by notification in the Official Gazette, direct that any power, authority, or jurisdiction exercisable by it under or in relation to any such provisions of this Act or of any Scheme as may be specified in the notification shall, subject to such conditions and restrictions as may be so specified, be exercisable also by any State Government.

20. Repeal of Ordinance VIII of 1951.—(1) The Employees' Provident Funds Ordinance, 1951 (VIII of 1951), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

SCHEDULE I.

[See sections 2(i) and 4.]

Any industry engaged in the manufacture or production of any of the following, namely:—

Cement.

Cigarettes.

Electrical, mechanical or general engineering products.

Iron and steel.

Paper.

Textiles (made wholly or in part of cotton or wool or jute or silk, whether natural or artificial).

SCHEDULE II.

[See section 6(2).]

MATTERS FOR WHICH PROVISION MAY BE MADE IN A SCHEME.

1. The employees or class of employees who shall join the Fund, and the conditions under which employees may be exempted from joining the Fund or from making any contribution.

2. The time and manner in which contribution shall be made to the Fund by employers and by, or on behalf of, employees, the contributions which an employee may, if he so desires, make under sub-section (1) of section 6, and the manner in which such contribution may be recovered.

3. The payment by the employer of such sums of money as may be necessary to meet the cost of administering the Fund and the rate at which and the manner in which the payment shall be made.

4. The constitution of boards of trustees for the administration of Funds, each of which shall consist of—

(a) nominees of the Central Government;

(b) nominees of such State Governments as the Central Government may, having regard to the jurisdiction of the board, specify in this behalf;

(c) representatives of the employers and employees concerned, nominated by the Central Government after consultation with the employers and employees concerned or with such of their respective organisations as are representative of their interests, provided that the number of representatives of the employees shall in no case be less than the number of representatives of the employers.

5. The number of trustees on any board, the terms and conditions subject to which they may be nominated, the time, place and procedure of meetings of the board, the appointment of officers and other employees of the board, and the opening of regional and other offices.

6. The manner in which accounts shall be kept, the investment of moneys belonging to the Fund in accordance with any directions issued or conditions specified by the Central Government, the preparation of the budget, the audit of accounts and the submission of reports to the Central Government or to any specified State Government.

7. The conditions under which withdrawals from the Fund may be permitted and any deduction or forfeiture may be made and the maximum amount of such deduction or forfeiture.
8. The fixation by the Central Government in consultation with the boards of trustees concerned of the rate of interest payable to members.
9. The form in which an employee shall furnish particulars about himself and his family whenever required.
10. The nomination of a person to receive the amount standing to the credit of a member after his death and the cancellation or variation of such nomination.
11. The registers and records to be maintained with respect to employees and the returns to be furnished by employers.
12. The form or design of any identity card, token or disc for the purpose of identifying any employee, and for the issue, custody and replacement thereof.
13. The fees to be levied for any of the purposes specified in this Schedule.
14. The contraventions or defaults which shall be punishable under sub-section (2) of section 14.
15. The further powers, if any, which may be exercised by Inspectors.
16. The manner in which accumulations in any existing provident fund shall be transferred to the Fund under section 15, and the mode of valuation of any assets which may be transferred by the employers in this behalf.
17. The conditions under which a member may be permitted to pay premia on life insurance, from the Fund.
18. Any other matter which may be necessary or proper for the purpose of implementing the Scheme.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India, received the assent of the President on the 6th of March 1952, and are hereby published for general information:—

ACT No. XX OF 1952.

THE INFLAMMABLE SUBSTANCES ACT, 1952.

An Act to declare certain substances to be dangerously inflammable and to provide for the regulation of their import, transport, storage and production by applying thereto the Petroleum Act, 1934, and the rules thereunder, and for certain matters connected with such regulation.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Inflammable Substances Act, 1952.

2. Definitions.—In this Act,—

- (a) “dangerously inflammable substance” means any liquid or other substance declared to be dangerously inflammable by this Act;
- (b) “Petroleum Act” means the Petroleum Act, 1934 (XXX of 1934).

3. Declaration of certain substances to be dangerously inflammable.—The liquids and other substances hereinafter mentioned, namely:—

- (1) acetone,
- (2) calcium phosphide,
- (3) carbide of calcium,
- (4) cinematograph films having a nitro-cellulose base,
- (5) ethyl alcohol,
- (6) methyl alcohol,
- (7) wood naphtha,

are hereby declared to be dangerously inflammable.

4. Power to apply Petroleum Act to dangerously inflammable substances.—(1) The Central Government may, by notification in the Official Gazette, apply any or all of the provisions of the Petroleum Act and of the rules made thereunder, with such modifications as it may specify, to any dangerously inflammable substance, and thereupon the provisions so applied shall have effect as if such substance had been included in the definition of “petroleum” under that Act.

(2) The Central Government may make rules providing specially for the testing of any dangerously inflammable substance to which any of the provisions of the Petroleum Act have been applied by notification under sub-section (1), and such rules may supplement any of the provisions of Chapter II of that Act in order to adapt them to the special needs of such tests.

5. Operation of certain notifications and rules.—Notifications or rules issued or purporting to have been issued under section 30 of the Petroleum Act between the 1st day of April, 1937, and the date of commencement of this Act shall be deemed to have been issued or made under this Act, and continue in force accordingly.

6. Validation of certain acts and indemnity in respect thereof.—All acts of executive authority, proceedings and sentences which have been done, taken or passed with respect to, or on account of, any inflammable substance since the 1st day of April, 1937, and before the commencement of this Act by any officer of Government or by any person acting under his authority or otherwise in pursuance of an order of the Government in the belief or purported belief that the acts, proceedings or sentences were being done, taken or passed under the Petroleum Act shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other legal proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings or sentences were not done, taken or passed in accordance with law.

7. Repeal of section 30, Act XXX of 1934.—Section 30 of the Petroleum Act is hereby repealed.

ACT No. XXI OF 1952.**THE APPROPRIATION (RAILWAYS) VOTE ON ACCOUNT ACT, 1952.**

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the service of the year beginning on the 1st day of April, 1952.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Appropriation (Railways) Vote on Account Act, 1952.

2. Withdrawal of Rs. 94,93,60,000 from and out of the Consolidated Fund of India for the year 1952-53.—From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of ninety-four crores, ninety-three lakhs and sixty thousand rupees towards defraying the several charges which will come in course of payment during the year beginning on the 1st day of April, 1952.

3. Appropriation.—The sums authorised to be withdrawn from and out of the Consolidated Fund by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year beginning on the 1st day of April, 1952.

SCHEDULE.

(See sections 2 and 3.)

No. of Vote.	Services and purposes.	Sums not exceeding		Total.
		Voted by Parliament	Charged on the Consoli- dated Fund.	
		Rs.	Rs.	
1	Railway Board	11,00,000	..	11,00,000
2	Audit	11,64,000	..	11,64,000
3	Miscellaneous Expenditure	23,79,000	..	23,79,000
4	Working Expenses—Administration ..	8,55,54,000	..	8,55,54,000
5	Working Expenses—Repairs and Maintenance.	21,40,64,000	..	21,40,64,000
6	Working Expenses—Operating Staff ..	13,68,72,000	..	13,68,72,000
7	Working Expenses—Operation (Fuel) ..	11,33,12,000	..	11,33,12,000
8	Working Expenses—Operation other than Staff and Fuel.	4,71,11,000	..	4,71,11,000
9	Working Expenses—Miscellaneous Expenses	6,59,34,000		6,59,34,000
9A.	Working Expenses—Labour Welfare ..	1,28,20,000	..	1,28,20,000
10	Payments to Indian States and Companies	10,52,000	..	10,52,000

1 No. of Vote.	2 Services and purposes.	3 Sums not exceeding		Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.	
		Rs.	Rs.	Rs.
12A.	Open Line Works (Revenue) Labour Welfare.	50,84,000	..	50,84,000
12B.	Open Line Works (Revenue) other than Labour Welfare.	1,31,86,000	..	1,31,86,000
15	Construction of New Line ..	17,14,000	..	17,14,000
16	Open Line Works—Additions ..	4,36,78,000	..	4,36,78,000
17	Open Line Works—Replacements ..	16,90,51,000	..	16,90,51,000
18	Open Line Works—Development Fund ..	3,46,68,000	..	3,46,68,000
19	Capital Outlay on Vizagapatam Port ..	6,17,000	..	6,17,000
	Total ..	94,93,60,000	..	94,93,60,000

ACT NO. XXII OF 1952.**THE BOMBAY COASTING-VESSELS (AMENDMENT) ACT, 1952.***An Act further to amend the Bombay Coasting-vessels Act, 1838.*

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Bombay Coasting-vessel (Amendment) Act, 1952.**2. Substitution of certain words for the words "Master-Attendant" in Act XIX of 1838.**—Throughout the Bombay Coasting-vessels Act, 1838 (hereinafter referred to as the principal Act), for the words "Master Attendant", wherever they occur, the words "Principal Officer, Mercantile Marine Department" shall be substituted.**3. Amendment of short title, Act XIX of 1838.**—In the short title of the principal Act, the word "Bombay" shall be omitted.**4. Insertion of new section 1 in Act XIX of 1838.**—The following section shall be inserted as section 1 of the principal Act, namely:—**"1. Extent.**—This Act extends in the first instance to the States of Bombay, Saurashtra and Kutch, but the Central Government may, by notification in the *Official Gazette*, extend it to any other State which has a sea-coast."**5. Amendment of section 2, Act XIX of 1838.**—In section 2 of the principal Act,—

(a) the words "residing within the State of Bombay" shall be omitted and

(b) for the words "the said State" the words "any State to which this Act extends" shall be substituted.

6. *Amendment of sections 4, 12 and 13, Act XIX of 1838.—In the second paragraph of section 4 and in sections 12 and 13 of the principal Act, the words “within the said State” shall be omitted.

7. Amendment of section 6, Act XIX of 1838.—In section 6 of the principal Act, the words “within the State of Bombay” shall be omitted.

8. Substitution of new section for section 10 in Act XIX of 1838.—For section 10 of the principal Act, the following section shall be substituted, namely:—

“10. *Fees for certificates.*—The owner or owners of such vessels employed as aforesaid (fishing-vessels and harbour-craft being excepted) on being registered as aforesaid, shall pay—

for each certificate of registry for a vessel not exceeding 5 tons burthen, the fee of 1 rupee;

for each certificate for a vessel exceeding 5 tons burthen and not exceeding 25 tons burthen, the fee of 5 rupees;

for each certificate for a vessel exceeding 25 tons burthen and not exceeding 100 tons burthen, the fee of 7 rupees;

and for each certificate for a vessel of 100 tons or greater burthen, per ton, the fee of 2 annas.”

9. Amendment of the Schedule, Act XIX of 1838.—In the Schedule to the principal Act, for the words “Bombay *khandis*” the word “tons” shall be substituted.

10. Repeal and saving.—If immediately before the commencement of this Act there is in force in the State of Kutch, any law corresponding to the principal Act, that law shall, on such commencement, stand repealed:

Provided that notwithstanding such repeal, anything done or any action taken (including any certificate of registration issued) in the exercise of any power conferred by or under such corresponding law, shall be deemed to have been issued, done or taken in the exercise of the powers conferred by or under the principal Act, as amended by this Act, as if the principal Act as so amended was in force in the said State on the day on which any such thing was done or action was taken.

ACT No. XXIII OF 1952.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1952.

An Act further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1952.

2. Substitution of new section for section 527 in Act V of 1898.—For section 527 of the Code of Criminal Procedure, 1898, the following section shall be substituted, namely:—

“527. *Power of Supreme Court to transfer cases and appeals.*—(1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a criminal court subordinate to one High Court to another criminal court of equal or superior jurisdiction subordinate to another High Court.

- (2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion which shall, except when the applicant is the Attorney-General of India or the Advocate-General, be supported by affidavit or affirmation.
- (3) The court to which such case is transferred may act on the evidence already recorded or partly so recorded and partly recorded by itself, or it may re-summon the witnesses and recommence the inquiry or trial:
- Provided that in any case so transferred the person accused may, when the court to which the case is transferred commences its proceedings, demand that the witnesses or any of them be re-summoned and reheard.
- (4) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case."

ACT No. XXIV OF 1952.

THE CRIMINAL TRIBES LAWS (REPEAL) ACT, 1952.

An Act to provide for the repeal of the Criminal Tribes Act, 1924, and certain other laws corresponding thereto.

Be it enacted by Parliament as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Criminal Tribes Laws (Repeal) Act, 1952.
 - (2) It extends to the whole of India except the State of Jammu and Kashmir.
 - (3) It shall come into force immediately.
- 2. Repeal of Act VI of 1924 and corresponding laws.**—The Criminal Tribes Act, 1924 (VI of 1924) and every other law corresponding thereto in force in any State or part thereof shall stand repealed on the 31st day of August, 1952, but the Central Government may, by notification in the *Official Gazette*, declare that the said Act or any corresponding law shall stand repealed in any State or part thereof with effect from any earlier date.

ACT No. XXV OF 1952.

THE INDIAN BOILERS (AMENDMENT) ACT, 1952.

An Act further to amend the Indian Boilers Act, 1923.

Be it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Indian Boilers (Amendment) Act, 1952.
2. **Amendment of section 2B, Act V of 1923.**—In section 2B of the Indian Boilers Act, 1923, the words, brackets, letters and figures "clause (e) of section 6, clauses (c) and (d) of section 11, clause (d) of section 29" shall be omitted.

ACT No. XXVI OF 1952.**THE DELHI SPECIAL POLICE ESTABLISHMENT (AMENDMENT) ACT, 1952.**

An Act further to amend the Delhi Special Police Establishment Act, 1946.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Delhi Special Police Establishment (Amendment) Act, 1952.

2. Amendment of the long title and the preamble, Act XXV of 1946.—In the long title of, and the preamble to, the Delhi Special Police Establishment Act, 1946 (hereinafter referred to as the principal Act), for the words “for the State of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government,” the words “in Delhi for the investigation of certain offences in Part C States” shall be substituted.

3. Amendment of section 2, Act XXV of 1946.—In section 2 of the principal Act,—

(a) in sub-section (1),—

(i) the words “for the State of Delhi” shall be omitted, and

(ii) for the words “in that State” the words “in any Part C State” shall be substituted;

(b) in sub-section (2) and sub-section (3), for the words “the State of Delhi” the words “any Part C State” shall be substituted.

4. Amendment of section 3, Act XXV of 1946.—In section 3 of the principal Act, the words “committed in connection with matters concerning Departments of the Central Government” shall be omitted.

5. Amendment of section 5, Act XXV of 1946.—In sub-section (1) of section 5 of the principal Act, for the words “in India outside the State of Delhi” the words and letters “in a Part A State or a Part B State” shall be substituted.

6. Substitution of new section for section 6, Act XXV of 1946.—For section 6 of the principal Act, the following section shall be substituted, namely:—

“6. Consent of State Government to exercise of powers and jurisdiction.
—Nothing contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in a Part A State or a Part B State, not being a railway area, without the consent of the Government of that State.”

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 7th March 1952, and are hereby published for general information:—

ACT NO. XXVII OF 1952.

THE INDIAN TARIFF AMENDMENT ACT 1952.

An Act further to amend the Indian Tariff Act, 1934.

Be it enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Tariff (Amendment) Act, 1952.

(2) The provisions of clause (v) of section 2 [relating to Item No. 63(34)] shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; but the remaining provisions shall come into force at once.

2. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the Indian Tariff Act, 1934,—

(i) in Items Nos. 21(3), 28(15), 28(18), 28(20), 40(4), 40(5), 50(3), 63(30), 63(35), 64, 64(3), 64(4), 65, 67, 67(1), 67(2), 68, 68(2), 69(2), 70, 70(1), 70(4), 70(5), 70(6), 70(9), 71(8), 72(12) and 73(7), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December, 31st 1951," wherever they occur, the word, figures and letters "December 31st, 1952" shall be substituted;

(ii) after Item No. 28(31), the following Item shall be inserted, namely:—

"28 (32)	Hydroquinone— (a) of British manufacture. (b) not of British manufacture:	Protective ..	28 per cent. <i>ad valorem.</i>	..	..	December 31st, 1953.
			Preferential rate of duty actually charged for the time being for such products of British manufacture <i>plus</i> ten per cent. <i>ad valorem.</i>	..	..	December 31st, 1953"
	Provided that Hydroquinone manufactured in a British colony shall be deemed to be of British manufacture.					

(iii) in Item No. 63(12), in the entry in the second column, after the words "excluding fish bolts and nuts", the words "and machine screws" shall be inserted;

(iv) for Item No. 63(33), the following Item shall be substituted, namely :—

63(33)	Iron or steel screws— (a) wood-screws ..	Protective ..	30 per cent. <i>ad valorem.</i>	..	..	December 31st, 1952.
	(b) machine screws ..	Protective ..	30 per cent. <i>ad valorem.</i>	..	..	December 31st, 1954.";

(v) for Item No. 63(34), the following Item shall be substituted, namely :—

63(34)	Iron or steel hoops— (a) Jute baling hoops— (i) of British manufac- ture.	Protective ..	30 per cent. <i>ad valorem.</i>	..	..	December 31st, 1952.
	(ii) not of British manufacture.	Protective ..	40 per cent. <i>ad valorem.</i>	..	..	December 31st, 1952.
	(b) Cotton baling hoops— (i) of British manufac- ture.	Protective ..	30 per cent. <i>ad valorem.</i>	..	..	December 31st, 1952.
	(ii) not of British ma- nufacture.	Protective ..	40 per cent. <i>ad valorem.</i>	..	..	December 31st, 1952.";

(vi) in Item No. 73(15)—

- (a) in the fourth column headed "Standard rate of duty" for the words "six per cent.", the words "three per cent." shall be substituted;
- (b) in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1951" wherever they occur, the word, figures and letters "December 31st, 1952", shall be substituted;

(vii) after Item No. 73(16), the following Item shall be inserted, namely :—

73(17)	Electric brass lamp hol- ders, excluding minia- ture brass lamp holders adapted for use in automobiles— (a) of British manufac- ture.	Protective ..	20 per cent. <i>ad valorem.</i>	..	..	December 31st, 1953.
	(b) not of British ma- nufacture.	Protective ..	30 per cent. <i>ad valorem.</i>	..	..	December 31st, 1953."

ACT NO. XXVIII OF 1952.**THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1952.**

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the service of a part of the financial year 1952-53.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Appropriation (Vote on Account) Act, 1952.

2. Withdrawal of Rs. 6,87,95,07,000 from and out of the Consolidated Fund of India for the financial year 1952-53.—From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of six hundred and sixty-seven crores, ninety-five lakhs and seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1952-53.

3. Appropriation.—The sums authorised to be withdrawn from and out of the Consolidated Fund by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

SCHEDULE.

(See sections 2 and 3.)

1	2	3		
		Sums not exceeding		Total.
No. of Vote.	Services and purposes.	Voted by Parliament.	Charged on the Consolidated Fund.	
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry ..	23,57,000	..	23,57,000
2	Industries	46,14,000	..	46,14,000
3	Commercial Intelligence and Statistics ..	15,22,000	..	15,22,000
4	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry.	7,20,000	..	7,20,000
5	Ministry of Communications ..	2,05,000	..	2,05,000
6	Indian Posts and Telegraphs Department (including Working Expenses).	12,83,05,000	47,28,000	13,30,33,000
7	Meteorology	34,73,000	..	34,73,000
8	Overseas Communications Service ..	27,20,000	1,17,000	28,37,000
9	Aviation	93,10,000	..	93,10,000
10	Miscellaneous Departments and Expenditure under the Ministry of Communications.	1,82,000	..	1,82,000

No. of Vote.	Services and purposes.	Sums not exceeding		Total.
		Voted by Parliament.	Charged on the Consoli- dated Fund.	
		Rs.	Rs.	
11	Ministry of Defence	8,61,000	..	8,61,000
12	Defence Services—Effective—Army ..	53,02,01,000	..	53,02,01,000
13	Defence Services—Effective—Navy ..	3,74,43,000	..	3,74,43,000
14	Defence Services—Effective—Air Force ..	7,74,04,000	..	7,74,04,000
15	Defence Services—Non-Effective Charges	5,20,19,000	2,000	5,20,21,000
16	Miscellaneous Expenditure under the Ministry of Defence.	1,67,000	..	1,67,000
17	Ministry of Education	11,81,000	..	11,81,000
18	Archaeology	12,88,000	..	12,88,000
19	Other Scientific Departments ..	56,67,000	..	56,67,000
20	Education	1,23,15,000	..	1,23,15,000
21	Miscellaneous Departments and Expenditure under the Ministry of Education.	9,00,000	..	9,00,000
22	Tribal Areas	98,47,000	..	98,47,000
23	External Affairs	1,65,46,000	..	1,65,46,000
24	Miscellaneous Expenditure under the Ministry of External Affairs.	1,68,000	..	1,68,000
25	Ministry of Finance	39,57,000	..	39,57,000
26	Customs	85,25,000	..	85,25,000
27	Union Excise Duties	1,67,96,000	..	1,67,96,000
28	Taxes on Income including Corporation tax	1,09,53,000	..	1,09,53,000
29	Opium	2,39,10,000	..	2,39,10,000
30	Stamps	31,68,000	1,90,000	33,58,000
31	Payments to other Governments, Departments, etc.	4,28,000	..	4,28,000
32	Audit	1,46,25,000	4,45,000	1,50,70,000
33	Currency	73,14,000	1,01,000	74,15,000
34	Mint	32,52,000	..	32,52,000
35	Territorial and Political Pensions ..	7,67,000	..	7,67,000
36	Superannuation Allowances and Pensions	1,09,87,000	2,79,000	1,12,66,000
37	Miscellaneous Departments and Expenditure under the Ministry of Finance.	52,88,000	..	52,88,000

1 No. of Vote.	2 Services and purposes.	3 Sums not exceeding.		Total Rs.
		Voted by Parliament.	Charged on the Consolidated Fund.	
38	Grants-in-aid to States	8,85,98,000	1,27,50,000	10,13,48,000
39	Miscellaneous Adjustments between the Union and State Governments.	43,000	..	43,000
40	Prepartition Payments	52,92,000	41,000	53,33,000
41	Extraordinary Payments	3,08,17,000	..	3,08,17,000
	<i>Charged—Interest on Debt and Other Obligations and Reduction or Avoidance of Debt.</i>	..	20,00,00,000	20,00,00,000
42	Ministry of Food and Agriculture	15,55,000	..	15,55,000
43	Forest	12,11,000	..	12,11,000
44	Survey of India	34,08,000	..	34,08,000
45	Botanical Survey	49,000	..	49,000
46	Zoological Survey	1,42,000	..	1,42,000
47	Agriculture	99,74,000	..	99,74,000
48	Civil Veterinary Services	9,67,000	..	9,67,000
49	Miscellaneous Expenditure under the Ministry of Food and Agriculture.	3,37,85,000	..	3,37,85,000
50	Ministry of Health	2,02,000	..	2,02,000
51	Medical Services	23,17,000	..	23,17,000
52	Public Health	25,55,000	..	25,55,000
53	Miscellaneous Expenditure under the Ministry of Health.	23,06,000	..	23,06,000
54	Ministry of Home Affairs	36,36,000	..	36,36,000
55	Cabinet	8,37,000	..	8,37,000
56	Delhi	42,26,000	..	42,26,000
57	Police	21,66,000	..	21,66,000
58	Census	6,23,000	..	6,23,000
59	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs.	2,95,000	..	2,95,000
60	Andaman and Nicobar Islands ..	42,67,000	..	42,67,000
61	Ministry of Information and Broadcasting	31,20,000	..	31,20,000
62	Broadcasting	66,95,000	..	66,95,000

No. of Vote.	Services and purposes.	3		Total.	
		Sums not exceeding.			
		Voted by Parliament.	Charged on the Consolidated Fund.		
		Rs.	Rs.	Rs.	
63	Ministry of Labour	9,64,000	..	9,64,000	
64	Chief Inspector of Mines	2,98,000	..	2,98,000	
65	Miscellaneous Departments and Expenditure under the Ministry of Labour.	45,59,000	..	45,59,000	
66	Employment Exchanges and Resettlement	33,42,000	..	33,42,000	
67	Civil Defence	41,000	..	41,000	
68	Ministry of Law	41,08,000	..	41,08,000	
69	Administration of Justice	66,000	2,96,000	3,62,000	
70	Ministry of Natural Resources and Scientific Research.	3,77,000	..	3,77,000	
71	Irrigation (including Working Expenses), Navigation, Embankment and Drainage Works met from Revenue.	8,000	..	8,000	
72	Geological Survey	20,80,000	..	20,80,000	
73	Mines	6,47,000	..	6,47,000	
74	Scientific Research	80,02,000	..	80,02,000	
75	Multi-purpose River Schemes ..	13,48,000	..	13,48,000	
76	Miscellaneous Departments and Expenditure under the Ministry of Natural Resources and Scientific Research.	11,17,000	..	11,17,000	
77	Department of Parliamentary Affairs ..	36,000	..	36,000	
78	Ministry of Rehabilitation	6,50,000	..	6,50,000	
79	Expenditure on Displaced Persons ..	3,36,33,000	..	3,36,33,000	
80	Miscellaneous Expenditure under the Ministry of Rehabilitation.	10,000	..	10,000	
81	Ministry of States	3,66,000	..	3,66,000	
82	Privy Purses and Allowances of Indian Rulers.	1,32,000	2,68,72,000	2,70,04,000	
83	Kutch	32,14,000	..	32,14,000	
84	Bilaspur	4,81,000	..	4,81,000	
85	Manipur	15,45,000	..	15,45,000	
86	Tripura	36,95,000	..	36,95,000	

1 No. of Vote.	2 Services and purposes.	3		Total.
		Sums not exceeding Voted by Parliament.	Charged on the Consolidated Fund.	
87	Relations with States	18,62,000	..	18,62,000
88	Miscellaneous Expenditure under the Ministry of States.	46,000	..	46,000
89	Ministry of Transport	8,79,000	..	8,79,000
90	Ports and Pilotage	22,62,000	..	22,62,000
91	Lighthouses and Lightships	4,99,000	..	4,99,000
92	Central Road Fund	1,73,33,000	..	1,73,33,000
93	Communications (including National Highways.)	1,46,95,000	..	1,46,95,000
94	Miscellaneous Expenditure under the Ministry of Transport.	75,000	..	75,000
95	Ministry of Works, Production and Supply	5,14,000	..	5,14,000
96	Supplies	51,75,000	..	51,75,000
97	Salt	41,18,000	1,18,000	42,36,000
98	Stamps Cancelling and Printing Inks Manufacturing Factory.	98,000	..	98,000
99	Other Civil Works..	1,50,29,000	5,40,000	1,64,69,000
100	Stationery and Printing	1,68,32,000	..	1,68,32,000
101	Miscellaneous Departments and Expenditure under the Ministry of Works, Production and Supply.	19,09,000	..	19,09,000
102	Parliament	36,10,000	40,000	36,50,000
103	Miscellaneous Expenditure under the Parliament Secretariat.	10,000	..	10,000
	Charged—Staff, Household and Allowances of the President.	..	5,15,000	5,15,000
	Charged—Union Public Service Commission.	..	6,16,000	6,16,000
104	Capital Outlay of the Ministry of Commerce and Industry.	98,62,000	..	98,62,000
105	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue)	1,67,11,000	..	1,67,11,000
106	Capital Outlay on Civil Aviation ..	63,88,000	..	63,88,000
107	Other Capital Outlay of the Ministry of Communications.	17,66,000	..	17,66,000

No. of Vote.	Services and purposes.	Sums not exceeding		
		Voted by Parliament.	Charged on the Consolidated Fund.	Total.
			Rs.	Rs.
108	Defence Capital Outlay	5,66,66,000	..	5,66,66,000
109	Capital Outlay on the India Security Press	3,19,000	..	3,19,000
110	Capital Outlay on Currency	13,000	..	13,000
111	Capital Outlay on Mints	11,01,000	..	11,01,000
112	Commututed Value of Pensions	33,22,000	..	33,22,000
113	Payments to Retrenched Personnel	76,000	..	76,000
114	Other Capital Outlay of the Ministry of Finance.	1,000	..	1,000
115	Loans and Advances by the Central Government.	5,80,00,000	25,00,00,000	30,80,00,000
	<i>Charged—Repayment of Debt</i> .. ..	..	3,46,29,45,000	3,46,29,45,000
116	Capital Outlay on Forest	8,35,000	..	8,35,000
117	Purchase of Foodgrains	1,00,00,00,000	..	1,00,00,00,000
118	Other Capital Outlay of the Ministry of Food and Agriculture.	6,10,66,000	9,50,000	6,20,16,000
119	Capital Outlay of the Ministry of Health	60,00,000	..	60,00,000
120	Capital Outlay of the Ministry of Home Affairs.	7,80,000	..	7,80,000
121	Capital Outlay on Broadcasting	14,42,000	..	14,42,000
122	Capital Outlay of Ministry of Labour	2,04,000	..	2,04,000
123	Capital Outlay on Multi-purpose River Schemes.	1,02,22,000	..	1,02,22,000
124	Other Capital Outlay of the Ministry of Natural Resources and Scientific Research.	25,65,000	..	25,65,000
125	Capital Outlay of the Ministry of Rehabilitation.	10,00,000	..	10,00,000
126	Capital Outlay of the Ministry of States	1,06,02,000	..	1,06,02,000
127	Capital Outlay on Ports	80,00,000	..	80,00,000
128	Capital Outlay on Roads	2,16,67,000	..	2,16,67,000
129	Other Capital Outlay of the Ministry of Transport.	39,48,000	..	39,48,000
130	New Delhi Capital Outlay	72,45,000	30,000	72,75,000
131	Capital Outlay on Buildings	3,42,53,000	..	3,42,53,000
132	Other Capital Outlay of the Ministry of Works, Production and Supply.	1,88,44,000	..	1,88,44,000
	Total	2,71,79,32,000	3,96,15,75,000	6,67,95,07,000

ACT NO. XXIX OF 1952.**THE FINANCE ACT, 1952.**

[As passed by Parliament.]

An Act to continue for the financial year 1952-53 the existing rates of income-tax and super-tax and additional duties of customs and excise, and to provide for the discontinuance of the duty on salt for the said year.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Finance Act, 1952.

2. Income-tax and super-tax.—The provisions of section 2 of, and the First Schedule to, the Finance Act, 1951 (XXIII of 1951), shall apply in relation to income-tax and super-tax for the financial year 1952-53 as they apply in relation to income-tax and super-tax for the financial year 1951-52, with the modification that in the said provisions for the figures "1950," "1951" and "1952", wherever they occur, the figures "1951", "1952" and "1953" shall respectively be substituted.

3. Additional duties of customs and excise.—The provisions of sections 5 and 8 of, and the Second and Third Schedules to, the Finance Act, 1951 (XXIII of 1951), shall continue in force up to the 31st day of March, 1953, and accordingly in each of the said sections for the figures "1952", wherever they occur, the figures "1953" shall be substituted.

4. Discontinuance of salt duty.—For the year beginning on the 1st day of April, 1952, no duty shall be levied on salt manufactured in, or imported by sea or land into, the territory of India excluding the State of Jammu and Kashmir:

K. V. K. SUNDARAM, Secy.

registered No. C207

The

Calcutta Gazette

THURSDAY, APRIL 24, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on the 15th March 1952, and is hereby published for general information :—

ACT NO. XXXV OF 1952.

THE MINES ACT, 1952.

An Act to amend and consolidate the law relating to the regulation of labour and safety in mines.

Be it enacted by Parliament as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Mines Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States but not later than 31st December, 1953.

2. Definitions.—In this Act, unless the context otherwise requires.—

(a) “adolescent” means a person who has completed his fifteenth year but has not completed his eighteenth year;

(b) “adult” means a person who has completed his eighteenth year;

(c) “agent”, when used in relation to a mine, means any person, whether appointed as such or not, who acts as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;

- (a) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;
- (c) "child" means a person who has not completed his fifteenth year;
- (f) "day" means a period of twenty-four hours beginning at midnight;
- (g) "district magistrate" means, in a presidency-town, the person appointed by the Central Government to perform the duties of a district magistrate under this Act in that town;
- (h) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;
- (i) "Inspector" means an Inspector of Mines appointed under this Act, and includes a district magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;
- (j) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—
- (i) every shaft in the course of being sunk;
 - (ii) every level and inclined plane in the course of being driven;
 - (iii) all shafts, levels, planes, machinery, works, tramways and sidings, whether above or below ground, in or adjacent to, and belonging to, the mine;
 - (iv) any workshop situated within the precincts of the mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management;
 - (v) any power station for supplying electricity solely for the purpose of working the mine, or any group of mines; and
 - (vi) unless exempted by the Central Government by notification in the Official Gazette, any premises or part thereof on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;
- (k) "office of the mine" means an office at the surface of the mine concerned;
- (l) "owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;
- (m) "prescribed" means prescribed by rules, regulations or bye-laws, as the case may be;

- (n) "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedule to the Indian Medical Council Act, 1933 (XXVII of 1933);
- (o) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;
- (p) where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a "relay";
- (q) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days;
- (r) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

3. References to enactments not in force in Part B States.—In the application of this Act to any Part B State, unless the context otherwise requires, references to any enactment in force in Part A States but not in force in that Part B State shall be construed as references to the corresponding enactment, if any, in force in that Part B State.

4. References to time of day.—In this Act, references to time of day are references to Indian standard time, being five and a half hours ahead of Greenwich mean time:

Provided that, for any area in which Indian standard time is not ordinarily observed, the Central Government may make rules—

- (a) specifying the area;
- (b) defining the local mean time ordinarily observed therein; and
- (c) permitting such time to be observed in all or any of the mines situated in the area.

CHAPTER II.

INSPECTORS AND CERTIFYING SURGEONS.

5. Chief Inspector and Inspectors.—(1) The Central Government may, by notification in the Official Gazette, appoint such a person as possesses the prescribed qualifications to be Chief Inspector of Mines for all the territories to which this Act extends and such persons as possess the prescribed qualifications to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or having been appointed shall continue to hold such office, who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The district magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government:

Provided that nothing in this sub-section shall be deemed to empower a district magistrate to exercise any of the powers conferred by section 22 or section 61.

(4) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

6. Functions of Inspectors.—(1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which Inspectors shall exercise their respective powers.

(2) The Inspectors shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

7. Powers of Inspectors of Mines.—(1) The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the persons employed in the mine, and take whether on the precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(2) The Chief Inspector and any Inspector may, if he has reason to believe, as a result of any inspection, examination or inquiry under this section, that an offence under this Act has been or is being committed, search any place and take possession of any register or other record appertaining to the mine, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code.

8. Powers of special officer to enter, measure, etc.—Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may, for the purpose of surveying, levelling or measuring any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any time by day or night:

Provided that where in the opinion of the Chief Inspector or of an Inspector, by order in writing, authorise any person to enter the mine for the aforesaid purposes without

9. Facilities to be afforded to Inspectors.—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

10. Secrecy of information obtained.—(1) All copies of, and extracts from, registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 8 in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information (if so required) to—

- (a) any court;
- (b) a Mining Board, Committee, or Court of Inquiry constituted or appointed under section 12, section 13 or section 24, as the case may be;
- (c) an official superior or the owner, agent or manager of the mine concerned;
- (d) a Commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923);
- (e) the Director, Indian Bureau of Mines.

(3) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses, contrary to the provisions of this section, any such information as aforesaid without the consent of the Central Government, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

11. Certifying surgeons.—(1) The Central Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(2) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.

6. Functions of Inspectors.—(1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which Inspectors shall exercise their respective powers.

(2) The Inspectors shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

7. Powers of Inspectors of Mines.—(1) The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the persons employed in the mine, and take whether on the precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(2) The Chief Inspector and any Inspector may, if he has reason to believe, as a result of any inspection, examination or inquiry under this section, that an offence under this Act has been or is being committed, search any place and take possession of any register or other record appertaining to the mine, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code.

8. Powers of special officer to enter, measure, etc.—Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may, for the purpose of surveying, levelling or measuring any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any time by day or night:

Provided that, where in the opinion of the Chief Inspector or of an Inspector an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

9. Facilities to be afforded to Inspectors.—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

10. Secrecy of information obtained.—(1) All copies of, and extracts from, registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 8 in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information (if so required) to—

- (a) any court;
- (b) a Mining Board, Committee, or Court of Inquiry constituted or appointed under section 12, section 13 or section 24, as the case may be;
- (c) an official superior or the owner, agent or manager of the mine concerned;
- (d) a Commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923);
- (e) the Director, Indian Bureau of Mines.

(3) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses, contrary to the provisions of this section, any such information as aforesaid without the consent of the Central Government, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

11. Certifying surgeons.—(1) The Central Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(2) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

- (a) the examination and certification of adolescents under this Act;
- (b) the examination of persons engaged in a mine in such dangerous occupations or processes as may be prescribed;
- (c) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where—
 - (i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in the mine;
 - (ii) adolescents are or are to be employed in any work which is likely to cause injury to their health.

CHAPTER III.

MINING BOARDS AND COMMITTEES.

12. Mining Boards.—(1) The Central Government may constitute for any part of the territories to which this Act extends, or for any group or class of mines, a Mining Board consisting of—

- (a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Central Government to act as chairman;
- (b) the Chief Inspector or an Inspector nominated by the Central Government;
- (c) a person, not being the Chief Inspector or an Inspector, nominated by the Central Government;
- (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;
- (e) two persons to represent the interest of mines, who shall be nominated in accordance with the following provisions, namely,—
 - (i) if there are one or more registered trade unions having in the aggregate as members not less than one-quarter of the miners, the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed;
 - (ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than one thousand miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Central Government;
 - (iii) if neither sub-clause (i) nor sub-clause (ii) is applicable, the said persons shall be nominated by the Central Government.

Explanation.—In this clause 'miner' means a person employed, otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

- (2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Central Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

13. Committees.—(1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

- (a) a chairman nominated by the Central Government or by such officer or authority as the Central Government may authorise in this behalf;
- (b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and
- (c) two persons to represent the interests of the persons employed in the mine of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Central Government in consultation with such organisations of miners employed in the mine as may be recognised for the purpose by that Government.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure proceed to inquire into and dispose of the matter referred to it.

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine, concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Central Government.

(5) On receiving such report the Central Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Central Government may proceed to review such decision and to pass such orders in the matter as it may think fit:

Provided that if an objection is lodged by the Chief Inspector, notice of the same shall be given to the owner, agent or manager of the mine before any orders are passed thereon by the Central Government.

(6) The Central Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration.

14. Powers of Mining Boards.—(1) Any Mining Board constituted under section 12 and any Committee constituted under section 13 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 12 and every Committee appointed under section 13 shall have the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by any such

Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

15. Recovery of expenses.—The Central Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 12 or by a Committee appointed under section 13 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the magistrate's jurisdiction belonging to such owner or agent:

Provided that the owner or his agent has not paid the amount within six weeks from the date of receiving the notice from the Central Government or the Chief Inspector of Mines.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

16. Notice to be given of mining operations.—(1) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give to the Chief Inspector, the Director, Indian Bureau of Mines and the district magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation.

17. Managers.—Save as may be otherwise prescribed every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

18. Duties and responsibilities of owners, agents and managers.—(1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whatsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves—

- (a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and
- (b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

19. Drinking water.—(1) In every mine, both above and below ground, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all persons employed therein a sufficient supply of cool and wholesome drinking water.

(2) All such points shall be legibly marked 'DRINKING WATER' in a language understood by a majority of the persons employed in the mine and no such point shall be situated within twenty feet of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(3) In respect of all mines or any class or description of mines, the Central Government may make rules for securing compliance with the provisions of sub-sections (1) and (2) and for the examination by prescribed authorities of the supply and distribution of drinking water.

20. Conservancy.—(1) There shall be provided, separately for males and females in every mine, a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

(2) All latrines and urinals provided under sub-section (1) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(3) The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations in this regard of persons employed in the mine) as it may consider necessary in the interests of the health of the persons so employed.

21. Medical appliances.—(1) In every mine, both above and below ground, there shall be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards shall not be less than one for every one hundred and fifty persons employed in the mine.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1) and all such boxes and cupboards shall be kept in the charge of any person employed in the mine who is trained in such first-aid treatment as may be prescribed and who shall always be available during the working hours of the mine.

(3) In every mine wherein more than five hundred persons are employed, there shall be provided and maintained such ambulances and stretchers as may be prescribed and an ambulance room of the prescribed size containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.—(1) If in respect of any matter for which no express provision is made in this Act, or in the regulations, rules or bye-laws or in any orders made thereunder it appears to

the Chief Inspector or the Inspector that any mine, or any part thereof of any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire, and the provisions of sub-sections (4), (5), (6) and (7), shall apply to an order made under this sub-section as they apply to an order made under sub-section (3).

(3) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(4) Where an order has been made under sub-section (3) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(5) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (3), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (4) shall forthwith report the same to the Central Government.

(6) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (3), or sub-section (4), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing stating the grounds thereof, to the Central Government which shall refer the same to a Committee.

(7) Every requisition made under sub-section (1), or order made under sub-section (3), or sub-section (4) to which objection is made under sub-section (6), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1), pending its decision on the objection.

(8) Nothing in this section shall affect the powers of a magistrate under section 144 of the Code of Criminal Procedure, 1898 (Act V of 1898).

23. Notice to be given of accidents.—(1) Where there occurs in or about a mine—

- (a) an accident causing loss of life or serious bodily injury, or
- (b) an accidental explosion, ignition, spontaneous heating, outbreak of fire or irruption of water, or
- (c) an accidental breakages of ropes, chains or other gear by which men are lowered or raised, or
- (d) an accidental overwinding of cages, while men are being lowered or raised, or
- (e) a premature collapse of any part of the workings,

the owner, agent or manager of the mine shall give notice of the occurrence to such authority, in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials and shall ensure that the notice is kept on the board for not less than two months from the date of such posting.

(2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the authority shall make an inquiry into the occurrence within two months of the receipt of the notice and, if the authority is not the Inspector, he shall cause the Inspector to make an inquiry within the said period.

(3) The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-section (1), which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (1).

(4) A copy of the entries in the register referred to in sub-section (3) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.

24. Power of Government to appoint Court of inquiry in cases of accidents.—(1) When any accident occurs in or about a mine causing loss of life or serious bodily injury or when an accidental explosion, ignition, spontaneous heating, outbreak of fire, irruption of water, breakage of ropes, chains or other gear by which men are lowered or raised, or when an accidental overwinding of cages occurs in or about a mine while men are being lowered or raised, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(2) The person appointed to hold any such inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

25. Notice of certain diseases.—(1) Where any person employed in a mine contracts any disease notified by the Central Government in the Official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (1), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating—

- (a) the name and address of the patient,
- (b) the disease from which the patient is or is believed to be suffering, and
- (c) the name and address of the mine in which the patient is or was last employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying surgeon or otherwise that the person is suffering from a disease notified under sub-section (1), the Chief Inspector shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

26. Power to direct investigation of causes of disease.—(1) The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it on any case where a disease notified under sub-section (1) of section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The provisions of sub-sections (2) and (3) of section 24 shall apply to an inquiry under this section in the same manner as they apply to any inquiry under that section.

27. Publication of reports.—The Central Government may cause any report submitted by a Committee under section 13 or any report or extracts from any report submitted to it under section 26, and shall cause every report submitted by a Court of inquiry under section 24 to be published at such time and in such manner as it may think fit.

CHAPTER VI.

HOURS AND LIMITATION OF EMPLOYMENT.

28. Weekly day of rest.—No person shall be allowed to work in a mine on more than six days in any one week.

29. Compensatory days of rest.—(1) Where in pursuance of action under section 38 or as a result of exempting any mine or the persons

employed therein from the provisions of section 28, any person employed therein is deprived of any of the weekly days of rest for which provision is made in section 28, he shall be allowed, within the month in which such days of rest were due to him or within the two months immediately following that month, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(2) The Central Government may prescribe the manner in which the days of rest for which provision is made in sub-section (1) shall be allowed.

30. Hours of work above ground.—(1) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day.

(2) The periods of work of any such adult shall be so arranged that, along with his interval for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than five hours continuously before he has had an interval for rest of at least half an hour:

Provided that the Chief Inspector may, for reasons to be recorded, increase the period of spread over to fourteen hours in any day.

(3) No person belonging to two or more relays shall be allowed to do work of the same kind above ground at the same moment:

Provided that, for the purposes of this sub-section, persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

31. Hours of work below ground.—(1) No adult employed below ground in a mine, except a pump-minder, an onsetter or attendant of continuously operated machinery, shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day.

(2) No adult excepted under sub-section (1) shall be allowed to work for more than fifty-four hours in any week or for more than nine hours in any day.

(3) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than eight hours in the case of adults referred to in sub-section (1), and nine hours in the case of adults referred to in sub-section (2), in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than the hours stipulated in sub-section (1) or sub-section (2), as the case may be.

(4) No adult employed in a mine shall be allowed to be in any part of a mine below ground, except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 48.

32. Special provision for night relays.—Where a worker works in a relay whose period of work extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day.

33. Extra wages for overtime.—(1) Where a person employed in a mine works therein for more than forty-eight hours whether above or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages if he works below ground, and at one and a half times that rate if he works above ground.

(2) Where any person employed in a mine is paid on piece-rate basis, the Central Government shall, in consultation with the employer concerned and the representatives of the persons employed in the mine, fix for the purposes of this section time rates which shall, as nearly as possible, be equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.

(3) For the purposes of this section 'ordinary rate of wages' means the basic wages *plus* such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of foodgrains and other articles as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus.

(4) The Central Government may prescribe the registers to be maintained in a mine for the purpose of securing compliance with the provisions of this section.

34. Prohibition of employment of certain persons.—No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.

35. Limitation of periods of overtime work.—Save in respect of cases falling within clause (a) of section 39, no person employed in a mine shall be allowed to work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty for any one quarter:

Provided that—

- (i) subject to the previous approval of the Chief Inspector, the daily maximum hours specified in sections 30 and 31 may be exceeded in order to facilitate a change of shifts;
- (ii) an adult, engaged in work which for technical reasons must be continuous throughout the day, may be employed for fifty-six hours a week.

Explanation.—In this section 'quarter' means a period of three consecutive months beginning with the 1st day of January, April, July or October.

36. Notices regarding hours of work.—(1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay.

(2) In the case of a mine at which mining operations commence after the commencement of this Act, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) The notice referred to in sub-section (1) shall also state the time of the commencement and of the intervals for rest for persons employed above ground and a copy thereof shall be sent to the Chief Inspector, if he so requires.

(4) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any relay or in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.

(5) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).

37. Supervising staff.—Nothing in section 28, section 30, section 31, section 34 or sub-section (4) of section 36 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

38. Exemption from provisions regarding employment.—(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as the result of breakdown of such machinery, plant or equipment, the manager may, subject to the provisions of section 22 and in accordance with the rules under section 39, permit persons to be employed in contravention of section 28, section 30, section 31, section 34 or sub-section (4) of section 36, on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of coal would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(2) Every case in which action has been taken by the manager under sub-section (1), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector.

39. Power to make exempting rules.—The Central Government may make rules providing for the exemption, to such extent and subject to such conditions as may be specified, from the provisions of sections 28, 30, 31, 34 or sub-section (4) of section 36,—

- (a) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;
- (b) of all or any of the persons so employed, in case of an accident, actual or apprehended;
- (c) of all or any of the persons engaged in urgent repairs; and
- (d) of all or any of the persons employed in any work which for technical reasons must be carried on continuously throughout the day.

40. Employment of adolescents.—(1) No adolescent shall be allowed to work in any part of a mine which is below ground unless—

- (a) a medical certificate in the prescribed form granted to the adolescent by a certifying surgeon certifying that he is fit for work as an adult is in the custody of the manager of the mine;
- (b) the adolescent carries, while at work, a token giving a reference to such certificate;
- (c) the adolescent has an interval for rest of at least half an hour after every four and a half hours of continuous work on any day.

(2) Notwithstanding anything contained in this Act, no adolescent who has been granted a certificate under sub-section (1) shall be employed in any mine except between the hours of 6 a.m. and 6 p.m.:

Provided that the Central Government may, by notification in the Official Gazette, vary the hours of employment of such adolescent in respect of any

mine or class of mines so however that no employment of any such adolescent between the hours of 10 p.m. and 5 a.m. is permitted thereby.

41. Certificate of fitness.—(1) A certificate of fitness granted or renewed for the purposes of section 40—

- (a) shall be valid only for a period of twelve months from the date thereof;
- (b) may be subject to specified conditions in regard to employment generally or the nature of the work in which the adolescent may be employed.

(2) A certifying surgeon shall revoke a certificate granted or renewed under section 40, if in his opinion the holder of it is no longer fit for work in the capacity stated therein in a mine.

(3) Where a certifying surgeon refuses to grant or renew a certificate or revokes a certificate, he shall, if so required by the person concerned, state his reasons in writing for so doing.

(4) Where a certificate under section 40 with reference to any adolescent is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (1), an adolescent shall not be required or allowed to work in any mine except in accordance with those conditions.

(5) The adolescent or his parents shall not be liable to pay any part of the expenses of any medical examination under section 40 in all cases where the application for a medical certificate is accompanied by a document signed by the manager of a mine stating that the adolescent to be examined will be employed in the mine if certified to be fit for work therein or the application is made by the manager of the mine in which the adolescent desires to be employed.

42. Effect of certificate of fitness granted to adolescents.—An adolescent, who has been granted a certificate of fitness to work in a mine as an adult under section 40, and who while actually employed in a mine carries a token giving a reference to such certificate, shall be deemed to be an adult for the purposes of this Act.

43. Power to require medical examination.—Where an Inspector is of opinion that any person employed in a mine without a certificate of fitness is an adolescent or that an adolescent working in a mine with certificate of fitness is no longer fit to work in the capacity stated in the certificate, he may serve on the manager of the mine a notice requiring that such person or adolescent, as the case may be, shall be examined by a certifying surgeon and such person or adolescent shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been granted a certificate of fitness, or a fresh certificate of fitness, as the case may be, under section 40, or has been certified by the certifying surgeon examining him not to be an adolescent.

44. Working hours for adolescents not certified to be fit for work as adults.—(1) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

- (a) for more than four and a half hours in any day; or
- (b) between the hours of 6 p.m. and 6 a.m.

(2) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (1) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent.

45. Employment of children.—(1) No child shall be employed in any mine, nor shall any child be allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining operation is being carried on.

(2) After such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no child shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.

46. Employment of women.—No woman shall be employed at any time of the day or night in any part of a mine which is below the adjacent ground level, and no woman shall be employed in any mine above ground except between the hours of 6 a.m. and 7 p.m.:

Provided that the Central Government may, by notification in the Official Gazette, vary the hours of employment of women, above ground in respect of any mine or class or description of mine, so however that no employment of any woman between the hours of 10 p.m. and 5 a.m. is permitted thereby.

47. Disputes as to age.—(1) If any question arises between the Chief Inspector or Inspector and the manager of any mine as to whether any person is a child or an adolescent the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

48. Registers of persons employed.—(1) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person—

- (a) the name of the employee, with the name of his father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;
- (b) the age and sex of the employee;
- (c) the nature of his employment whether above ground, below ground or open cast workings, and the date of commencement thereof;
- (d) the periods of work fixed for him;
- (e) the intervals for rest, if any, and the days of rest to which he is entitled;
- (f) in the case of an adolescent, reference to the certificate of fitness granted under section 40;

(g) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him;

(h) such other particulars as may be prescribed;

and the relevant entries shall be authenticated by the signature or the thumb impression of the person concerned.

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(4) For every mine, other than a mine which is exempted by the Central Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine, (a) below ground, (b) in open cast workings and (c) above ground—

(a) the name of the employee;

(b) the nature of his employment;

(c) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him.

(5) The register of persons employed below ground referred to in sub-section (4) shall show at any moment the name of every person who is then present below ground in the mine.

CHAPTER VII.

LEAVE WITH WAGES.

49. Leave defined.—For the purposes of this Chapter leave shall not except as provided in section 51, include weekly days of rest or holidays for festivals or other similar occasions.

50. Application of Chapter.—The provisions of this Chapter shall not operate to the prejudice of any rights to which a person employed in a mine may be entitled under any other law for the time being in force or under the terms of any award, agreement or contract of service, and, where an such award, agreement or contract of service provides for a longer leave with wages than is provided in this Chapter, such person shall be entitled to such longer leave only.

51. Annual leave with wages.—(1) Every person employed in a mine who has completed a period of twelve months' continuous service therein shall be allowed, during the subsequent period of twelve months, leave with full pay or wages based on the average pay or wages for the twelve months immediately preceding the leave, as provided in section 52, and such leave shall be calculated at the rate of—

(i) if he is an employee paid by the month, fourteen days for such period of twelve months;

(ii) if he is an employee paid by the week, or a loader, or other person employed below ground on a piece-rate basis, seven days for such period of twelve months.

(2) The twelve months' continuous service referred to in sub-section (1) shall be deemed to have been completed,—

- (a) in the case of a loader, or other person employed below ground on a piece-rate basis, if he has during the said period of twelve months put in not less than one hundred and ninety attendances at the mine;
- (b) in the case of a person employed above ground on a piece-rate basis or in the case of any other person who is paid by the month, week or day, if he has during the said period of twelve months put in not less than two hundred and sixty-five attendances at the mine.

Explanation.—In either of the above cases the period of leave shall be inclusive of the weekly days of rest and any holiday (if granted) which may occur during such period.

(3) If any person employed in a mine who is paid by the month does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that the total number of days of leave which may be accumulated by any such person shall not exceed twenty-eight days in all.

(4) Any such person may, during any such period of twelve months, apply in writing to the manager of the mine, not less than fifteen full working days before the day on which he wishes his leave to begin, for all leave or any portion thereof allowable to him during that period under sub-sections (1) and (3).

(5) No application for leave made in accordance with the provisions of this section shall ordinarily be refused, unless the authority empowered to grant the leave is of the opinion that owing to the exigencies of the situation the leave should be refused.

(6) If any person entitled to leave under this section is discharged from the mine before he has taken or has been allowed to take the entire leave to which he is entitled, the owner, agent or manager of the mine shall pay to him the pay or wages payable under section 51 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

Explanation 1.—For the purposes of this section, a person shall be deemed to have completed a period of continuous service in a mine, notwithstanding any interruption of service during that period brought about by—

- (i) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of that period, or
- (ii) a strike, which is not an illegal strike, or
- (iii) a lock-out, or
- (iv) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or
- (v) leave admissible or granted under any other law.

Explanation 2.—Authorised leave shall include any casual absence due to any reasonable cause:

Provided that the person concerned, within a week from the commencement of the absence, gives the reasons for such absence in writing to the owner, agent or manager of the mine, and any such period of authorised leave may include periods of unauthorised leave not exceeding in the

aggregate one-thirty-sixth of the period of continuous service, but ~~not~~ weekly days of rest allowed under section 28 which occurs at the beginning or end of an interruption brought about by the leave.

Explanation 3.—“Illegal strike” means a strike which is an illegal strike within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947), or of any other law for the time being in force.

52. Wages during leave period.—(1) For the leave allowed to a loader, or other person employed below ground on a piece-rate basis, he shall be paid at a rate equal to the daily average of his earnings for the month of December prior to his leave:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average earnings of all persons similarly employed for the same month, and for the purpose of such computation the cash equivalent of the advantage accruing to such persons through the free issue of foodgrains and any compensation in cash drawn by them during the said month shall be taken into account.

(2) For the leave allowed to a person employed in a mine who is paid by the month or week he shall be paid at a rate equal to his normal daily wages during the week preceding his leave, and in computing such wages the cash equivalent of the advantage accruing to him through the free issue of foodgrains and any compensation in cash drawn by him shall also be taken into account.

53. Payment in advance in certain cases.—Any person employed in a mine who has been allowed leave for not less than ten days in the case of a person paid by the month, and five days, either in the case of a person paid by the week or in the case of a loader, or other person employed below ground on a piece-rate basis, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

54. Power of Inspector to act for an employee.—Any Inspector may institute proceedings on behalf of any person employed in a mine to recover any sum required to be paid by an employer under this Chapter, which has not been paid by the employer.

55. Power to make rules.—The Central Government may, by rules, prescribe the maintenance by owners, agents or managers of mines of registers showing such particulars as may be required for the purposes of this Chapter and requiring such registers to be made available for examination by Inspectors.

56. Power to exempt mines.—Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.

CHAPTER VIII.

REGULATIONS, RULES AND BYE-LAWS.

57. Power of Central Government to make regulations.—The Central Government may, by notification in the Official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely:—

(a) for prescribing the qualifications required for appointment as Chief Inspector or Inspector;

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- (b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;
 - (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them, and for prescribing the qualifications of managers of mines and of persons acting under them;
 - (d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;
 - (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;
 - (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
 - (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;
 - (h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;
 - (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (IV of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;
 - (j) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such women and for limiting the weight of any single load that may be carried by a woman;
 - (k) for providing for the safety of the persons employed in a mine, their means of entrance thereto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
 - (l) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;
 - (m) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction of pillars and the maintenance of sufficient barriers between mine and mine;
 - (n) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings under rivers, tanks, water-courses, public roads and buildings and for requiring due precaution to be taken against the onrush of water into, outbreak of fire in or premature collapse of, any workings;
 - (o) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

- (p) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling or for other purposes of communication;
- (q) for providing for the safety of persons present on haulage roads and for restricting the use of certain classes of locomotives underground;
- (r) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;
- (s) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting, or regulating the extraction of minerals in circumstances likely to result in the premature collapse of or to result in or to aggravate the collapse of or irruptions of water or ignitions in mines;
- (t) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
- (u) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector;
- (v) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;
- (w) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 16;
- (x) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 (IX of 1890), or of any public work or classes of public works which the Central Government may, by general or special order, specify in this behalf;
- (y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (IX of 1890);
- (z) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public; and
- (zz) any other matter which has to be or may be prescribed.

58. Power of Central Government to make rules.—The Central Government may, by notification in the Official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

- (a) for providing for the appointment of Chairman and members of Mining Boards, and for regulating the procedure of such Boards;

- (b) for prescribing the form of the register referred to in sub-section (3) of section 23;
- (c) for providing for the appointment of Courts of inquiry under section 24, for regulating the procedure and powers of such Courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such Courts from the manager, owner or agent of the mine concerned;
- (d) for requiring the maintenance in mines wherein any women are employed or were employed on any day of the preceding twelve months of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women employed in the mine, the number and standards of such rooms, and the nature and extent of the amenities to be provided and the supervision to be exercised therein;
- (e) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;
- (f) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;
- (g) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;
- (h) for prescribing the forms of notices required under section 36, and for requiring such notices to be posted also in specified languages;
- (i) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;
- (j) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;
- (k) for prescribing the form of the certificate of fitness required by section 40, the conditions subject to which and the circumstances in which they may be granted and the circumstances in which they may be revoked;
- (l) for prescribing the form of registers required by section 48;
- (m) for prescribing abstracts of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;
- (n) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted;

- (o) for requiring the provision and maintenance in mines, wherein more than one hundred and fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;
- (p) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;
- (q) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of welfare officers as may be specified and for prescribing the qualifications and the terms and conditions of, and the duties to be performed by, such welfare officers;
- (r) for requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;
- (s) for providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management;
- (t) for prescribing the position, equipment, control, maintenance and functions of central rescue stations;
- (u) for providing for the levy and collection of a duty of excise (at a rate not exceeding six pies per ton) on coke and coal produced in and despatched from mines specified under clause (r) in any group or included under clause (r) in any specified area, the utilisation of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds;
- (v) for providing for the formation, training, composition and duties of rescue brigades; and generally for the conduct of rescue work in mines; and
- (w) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

59. Prior publication of regulations and rules.—(1) The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation is published under this section it shall be referred to every Mining Board which is, in the opinion of the Central Government concerned with the subject dealt with by the regulation, and the regulation shall not be published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(4) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in that part of the territories to which this Act extends which is affected by the rule, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(5) Regulations and rules shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Act.

(6) The provisions of sub-sections (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (d) or clause (e) of section 58 are made.

(7) The regulations and rules made under sections 57 and 58 shall be laid before Parliament, as soon as may be, after they are made.

60. Power to make regulations without previous publication.—Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 59, regulations under clause (i) and clauses (k) to (s) excluding clause (l) of section 57 may be made without previous publication and without previous reference to Mining Boards, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made shall not remain in force for more than two years from the making thereof.

61. Bye-laws.—(1) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient, the Chief Inspector or Inspector may—

(i) propose a draft of such bye-laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or

authority as the Central Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

(b) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(c) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(e) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Central Government may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

— 82. Posting up of abstracts from Act, regulations, etc.—There shall be kept posted up at or near every mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER IX.

PENALTIES AND PROCEDURE.

63. Obstruction.—(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

64. Falsification of records, etc.—Whoever—

- (a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or
- (b) knowingly uses as true any such counterfeit or false certificate, or
- (c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or
- (d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or
- (e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

65. Use of false certificates of fitness.—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 40 a certificate granted to another person under that section, or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

66. Omission to furnish plans, etc.—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

67. Contravention of provisions regarding employment of labour.—Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued.

68. Penalty for double employment of young persons.—If a child or an adolescent is employed in a mine on any day on which he has already been employed in another mine, his parent or guardian or the person who has the custody of such child or adolescent or who obtains any direct benefit from

his wages shall be punishable with fine which may extend to fifty rupees, unless it appears to the court that the child or adolescent was so employed without the consent or connivance of such parent, guardian or person.

69. Failure to appoint manager.—Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

70. Notice of accidents.—(1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period specified shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

71. Owner, etc., to report to Chief Inspector in certain cases.—Where the owner, agent or manager of a mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the court report the result thereof to the Chief Inspector.

72. Obligation of persons employed in a mine.—No person employed in a mine shall—

- (a) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein;
- (b) wilfully and without reasonable cause do anything likely to endanger himself or others;
- (c) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

73. Disobedience of orders.—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

74. Contravention of law with dangerous results.—(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable,—

- (a) if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both; or

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- (b) if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both; or
 - (c) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (1).

(3) Any court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

75. Prosecution of owner, agent or manager.—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the district magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector:

Provided that in respect of an offence committed in the course of the technical direction and management of a mine, the district magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

76. Determination of owner in certain cases.—Where the owner of a mine is a firm or other association of individuals, any one of the partners or members thereof or where the owner of a mine is a public company, any one of the directors thereof, or where the owner of a mine is a private company, any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

- (a) in the case of a firm, any of its partners,
- (b) in the case of an association, any of its members,
- (c) in the case of a public company, any of its directors, or
- (d) in the case of a private company, any of its shareholders, who is resident in each case in any place to which this Act extends to assume the responsibilities of the owner of the mine for the purposes of this Act, such partner, member, director or shareholder, as the case may be, shall, so long as he continues to so reside, be deemed to be the owner of the mine for the purposes of this Act, unless notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or shareholder, as the case may be, is received by the Chief Inspector.

77. Exemption of owner, agent or manager from liability in certain cases.—Where the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf and on

giving to the prosecutor not less than three clear days notice in writing of his intention so to do, to have that other person brought before the court on the date appointed for the hearing of the case; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the court—

- (a) that he has used due diligence to enforce the execution of the relevant provisions of this Act, and
- (b) that the other person committed the offence in question without his knowledge, consent or connivance,

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted:

Provided that—

- (a) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;
- (b) if in spite of due diligence the person alleged as the actual offender cannot be brought before the court on the date appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so however that the total period of such adjournments does not exceed three months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the court, the court shall proceed to hear the case against the owner, agent or manager, as the case may be.

78. Power of court to make orders.—(1) Where the owner, agent or manager of a mine is convicted of an offence punishable under this Act, the court may, in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

79. Limitation of prosecutions.—No court shall take cognizance of any offence under this Act, unless complaint thereof has been made—

- (i) within six months of the date on which the offence is alleged to have been committed, or
- (ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or

(iii) in any case where a Court of inquiry has been appointed by the Central Government under section 24, within six months after the date of the publication of the report referred to in sub-section (4) of that section, whichever is later.

80. Cognizance of offences.—No court inferior to that of a presidency magistrate or magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

81. Reference to Mining Board or Committee in lieu of prosecution in certain cases.—(1) If the court trying any case instituted at the instance of the Chief Inspector or of the district magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee it may stay the criminal proceedings, and report the matter to the Central Government with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Central Government may refer the case to a Mining Board or a Committee, or may direct the court to proceed with the trial.

CHAPTER X.

MISCELLANEOUS.

82. Decision of question whether a mine is under this Act.—If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

83. Power to exempt from operation of Act.—The Central Government may, by notification in the Official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any of the provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 45 unless it is also exempted from the operation of all the other provisions of this Act.

84. Power to alter or rescind orders.—The Central Government may reverse or modify any order passed under this Act.

85. Applications of Act to mines belonging to Government.—This Act shall apply to mines belonging to the Government.

86. Application of certain provisions of Act LXIII of 1948 to mines.—The Central Government may, by notification in the Official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (LXIII of 1948), shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

87. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

88. Repeal of Act IV of 1923.—The Indian Mines Act, 1923 (IV of 1923), is hereby repealed.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 21st March, 1952, and are hereby published for general information:—

ACT NO. XXXVI OF 1952.

THE INDIAN STANDARDS INSTITUTION (CERTIFICATION MARKS) ACT, 1952.

An Act to provide for the standardisation and marking of goods.

Be it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Standards Institution (Certification Marks) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “article” means (as respects standardisation and marking) any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured;

(b) “covering” includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container;

(c) “Indian Standard” means the standard (including any tentative or provisional standard) established and published by the Indian Standards Institution, in relation to any article or process, indicative of the quality and specification of such article or process;

(d) “Inspector” means an Inspector appointed under section 8;

(e) “Institution” means the Indian Standards Institution set up under the Resolution of the Government of India in the late Department of Industries and Supplies, No. 1 Std. (4)/45, dated the 3rd day of September, 1946, and registered under the Societies Registration Act, 1860 (XXI of 1860);

(f) “licence” means a licence granted under this Act to use the Indian Standards Institution Certification Mark in relation to any article or process which conforms to the Indian Standard;

(g) “mark” includes a device, brand, heading, level, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof;

(h) “prescribed” means prescribed by rules or regulations made under this Act;

(i) “process” includes any practice, treatment and mode of manufacture of any article;

(j) “registering authority” means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;

(k) “specification” means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;

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- (l) "Standard Mark" means the Indian Standards Institution Certification Mark specified by the Indian Standards Institution to represent a particular Indian Standard;
 - (m) "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person;
 - (n) an article is said to be marked with a Standard Mark if the article itself is marked with a Standard Mark or any covering containing, or label attached to, such article is so marked.

3. Powers and duties of the Institution.—The Institution may exercise such powers and perform such duties as may be assigned to it by or under this Act, and, in particular, such powers include power to—

- (a) establish and publish, in such manner as may be prescribed, the Indian Standard in relation to any article or process;
- (b) specify a Standard Mark to be called the Indian Standards Institution Certification Mark, which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard;
- (c) grant, renew, suspend or cancel, in such manner as may be prescribed, a licence for the use of the Standard Mark;
- (d) levy such fees for the grant or renewal of any licence as may be prescribed;
- (e) make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence;
- (f) do such other acts as may be prescribed.

4. Authentication of orders and other instruments of the Institution.—All orders and decisions of, and all other instruments issued by, the Institution shall be authenticated by the signature of such officer or officers as may be authorised by the Institution in this behalf.

5. Prohibition of improper use of Standard Mark.—(1) No person shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence granted under this Act.

(2) No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.

6. Prohibition of use of certain names, etc.—No person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Institution,—

- (a) any name which so nearly resembles the name of the Indian Standards Institution as to deceive or likely to deceive the public or which contains the expression "Indian Standard" or any abbreviation thereof; or

- (b) any mark or trade mark in relation to any article or process containing the expressions "Indian Standard" or "Indian Standard specification" or any abbreviation of such expressions.

7. Prohibition of registration in certain cases.—(1) Notwithstanding anything contained in any law for the time being in force, no registering authority shall—

- (a) register any company, firm or other body of persons which bears any name, or
- (b) register a trade mark or design which bears any name or mark, or
- (c) grant a patent, in respect of an invention, which bears a title containing any name or mark,

if the use of such name or mark is in contravention of section 5 or section 6.

(2) If any question arises before a registering authority whether the use of any name or mark is in contravention of section 5 or section 6, the registering authority may refer the question to the Central Government, whose decision thereon shall be final.

8. Inspectors.—(1) The Institution may appoint as many Inspectors as may be necessary for the purpose of inspecting whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence, and for the purpose of performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, an Inspector shall have power to—

- (a) inspect any operation carried on in connection with any article or process in relation to which the Standard Mark has been used;
- (b) take samples of any article, or of any material or substance used in any article or process, in relation to which the Standard Mark has been used;
- (c) exercise such other powers as may be prescribed.

(3) Every Inspector shall be furnished by the Institution with a certificate of appointment as an Inspector, and the certificate shall, on demand, be produced by the Inspector.

9. Power to obtain information, etc.—Every licensee shall supply the Institution with such information, and with such samples of any material or substance used in relation to any article or process, as the Institution may require.

10. Power to authorise the competent authority.—(1) The Central Government may, in consultation with the Institution, by notification in the Official Gazette, direct that any power exercisable by the Institution by or under this Act shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such authority or such organisation as may be specified in the notification (hereinafter referred to as the 'competent authority').

(2) For avoidance of doubts, it is hereby declared that the Central Government may, by a like notification, withdraw the powers delegated to a competent authority under sub-section (1).

11. Appeals.—(1) Any person aggrieved by an order passed under clause (c) of section 3, whether by the Institution or by a competent authority, may prefer an appeal to the Central Government.

(2) The appeal shall be presented in such form and manner and within such time as may be prescribed.

(3) The Central Government shall, in dealing with appeals under this section, follow such procedure as may be prescribed.

12. Certain matters to be kept confidential.—Any information obtained by an Inspector, competent authority, or the Institution from any statement made or information supplied or in any evidence given or from inspection made under the provisions of this Act shall be treated as confidential:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Act.

13. Penalty for improper use of Standard Marks, etc.—(1) Any person who contravenes the provisions of section 5 or section 6 shall be punishable with fine which may extend to ten thousand rupees.

(2) Any court trying a contravention under sub-section (1) may direct that any property in respect of which the contravention has taken place shall be forfeited to the Government.

14. Penalty for other offences.—Whoever contravenes any of the provisions of this Act or of any rules made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one thousand rupees.

15. Cognizance of offences by courts.—(1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the Government or the Institution or by an officer empowered in this behalf by the Government or the Institution.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class specially empowered in this behalf shall try any offence punishable under this Act.

16. Protection of action taken under this Act.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Institution or any person acting under the authority of the Central Government or the Institution for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

17. Act not to affect the operation of certain Acts.—Nothing in this Act shall affect the operation of the Agricultural Produce (Grading and Marketing) Act, 1937 (I of 1937) or the Drugs Act, 1940 (XXIII of 1940).

18. Savings.—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

19. Directions by the Central Government.—(1) The Central Government may, if satisfied that the public interest so requires, by order in writing for reasons to be stated therein, give to the Institution general instructions to be followed by the Institution and such instructions may, notwithstanding anything contained in the Societies Registration Act, 1960 (XXI of 1860), include directions to make or amend any bye-law relating to the composition of the Governing Body or other Committees of the Institution and its powers and functions in such form and within such period as may be specified in the order.

(2) In the exercise of its powers and performance of its duties, the Institution shall not depart from any general instructions issued under sub-section (1).

Explanation.—In this section, the expression "bye-law" includes all rules, or regulations (by whatever name called) which the Institution is

competent to make in the exercise of the powers conferred on it under the Societies Registration Act, 1860.

20. Power to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the procedure and manner in which the Indian Standard, in relation to any article or process, may be established and published;
- (b) the design of the Standard Mark in relation to each Indian Standard and the particulars which a Standard Mark may contain;
- (c) authorisation of competent authority under section 10;
- (d) the manner in which, and the conditions subject to which, a licence to use the Standard Mark may be granted, renewed, suspended or cancelled;
- (e) the levy of fees for the grant or renewal of any licence;
- (f) the mode of inspection by the Institution and the manner in which samples may be taken by it;
- (g) the powers and functions of the Institution;
- (h) the cases in which, and the circumstances under which, exemption may be granted from the prohibition contained in section 6;
- (i) the powers of Inspectors;
- (j) the form and manner in which and the time within which appeals may be preferred; the procedure to be followed in hearing appeals;
- (k) the forms to be used under this Act;
- (l) any other matter which has to be, or may be, prescribed under this Act.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

21. Power to make regulations.—(1) The Institution may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters specified in clauses (a), (b) and (f) of sub-section (2) of section 20.

ACT NO. XXXVII OF 1952.

THE CINEMATOGRAPH ACT, 1952.

An Act to make provision for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs.

Be it enacted by Parliament as follows:—

PART I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Cinematograph Act, 1952.

(2) Parts I, II and IV extend to the whole of India except the State of Jammu and Kashmir and Part III extends to Part C States only.

(3) This Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “adult” means a person who has completed his eighteenth year;
- (b) “Board” means the Board of Film Censors constituted by the Central Government under section 3;
- (c) “cinematograph” includes any apparatus for the representation of moving pictures or series of pictures;
- (d) “district magistrate”, in relation to a presidency-town, means the commissioner of police;
- (e) “place” includes a house, building, tent and any description of transport, whether by sea, land or air;
- (f) “prescribed” means prescribed by rules made under this Act.

PART II.

CERTIFICATION OF FILMS FOR PUBLIC EXHIBITION.

3. Board of Film Censors.—The Central Government may, by notification in the Official Gazette, constitute a Board of Film Censors, consisting of such number of persons as may be prescribed, for the purpose of examining and certifying films as suitable for unrestricted public exhibition or for public exhibition restricted to adults and prescribe the manner in which the Board shall exercise the powers conferred on it by this Act.

4. Certification of films.—(1) If the Board, after examination, considers that a film is suitable for unrestricted public exhibition or that, although not suitable for such exhibition it is suitable for public exhibition restricted to adults, it shall grant to the person applying for a certificate in respect of the film a “U” certificate in the former case and an “A” certificate in the latter case, and shall, in either case cause the film to be so marked in the prescribed manner, and any such certificate shall, save as hereinafter provided, be valid throughout India.

(2) If the Board is of opinion that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall inform the person applying for the certificate of its decision.

5. Appeals.—(1) Any person applying for a certificate, who is aggrieved by the decision of the Board—

- (a) refusing to grant a certificate, or
- (b) granting only an “A” certificate,

may, within thirty days from the date of such decision, appeal to the Central Government, and the Central Government may, after such inquiry into the matter as it considers necessary, pass such orders thereon as it thinks fit.

(2) If the Central Government rejects an appeal on the ground that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall, by notification in the Official Gazette, direct that the film shall be deemed to be an uncertified film in the whole of India.

(3) For the purpose of disposing of any appeal under this section, the Central Government may demand the exhibition of any film before any authority specified in this behalf and call for the report of such authority thereon.

(4) Nothing in this section shall prevent the Central Government from calling at any time for the record of any proceeding of the Board relating to the refusal to grant, or the grant of, any certificate and in which no appeal has been preferred and to make such order in the case as to the Central Government may seem fit.

6. Power of Central Government to modify orders under section 4 & section 5.—Notwithstanding anything contained in this Part, the Central Government may, of its own motion by notification in the Official Gazette direct that—

- (a) a certified film shall be deemed to be an uncertified film in the whole or any part of India, or
- (b) a film in respect of which a "U" certificate has been granted, shall be deemed to be a film in respect of which an "A" certificate has been granted:

Provided that before notification of such direction the person to whom the certificate was issued shall be given a fortnight's notice to show cause as to why such a direction be not notified.

7. Penalties for contraventions of this Part.—(1) If any person exhibits or permits to be exhibited in any place,—

- (a) any film other than a film which has been certified by the Board as suitable for unrestricted public exhibition or for public exhibition restricted to adults and which when exhibited displays the prescribed mark of the Board and has not been altered or tampered with in any way since such mark was affixed thereto;
 - (b) any film, which has been certified by the Board as suitable for public exhibition restricted to adults, to any person who is not an adult,
- he shall be punishable with fine which may extend to one thousand rupees and in the case of a continuing offence with a further fine which may extend to one hundred rupees for each day during which the offence continues.

(2) If any person is convicted of an offence punishable under this section committed by him in respect of any film, the convicting court may further direct that the film shall be forfeited to the Government.

(3) The exhibition of a film, in respect of which an "A" certificate has been granted, to children below the age of three years accompanying their parents or guardians shall not be deemed to be an offence within the meaning of this section.

8. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

- (a) the number of persons who may constitute the Board and the manner in which the Board may exercise its powers, including the delegation of any of the powers of the Board to such person or persons as the Board may nominate in that behalf;
- (b) the procedure of the Board for examining and certifying films as suitable for public exhibition and all matters ancillary thereto and the fees that may be levied by the Board;
- (c) the appointment of officers subordinate to the Board and the regulation of the terms and conditions of service and the powers and duties of such officers;

- (d) the conditions (including conditions relating to the length of films in general or any class of films, in particular) subject to which any certificate may be granted, or the circumstances in which any certificate shall be refused;
- (e) the manner in which an appeal under this Part may be preferred;
- (f) any other matter which by this Act is to be prescribed.

(3) All rules made by the Central Government under this Part shall be laid before Parliament as soon as may be after they are made.

9. Power to exempt.—The Central Government may, by order in writing exempt, subject to such conditions and restrictions, if any, as it may impose, the exhibition of any film or class of films from any of the provisions of this Part or of any rules made thereunder.

PART III.

REGULATION OF EXHIBITIONS BY MEANS OF CINEMATOGRAPHS.

10. Cinematograph exhibitions to be licensed.—Save as otherwise provided in this Part, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Part or otherwise than in compliance with any conditions and restrictions imposed by such licence.

11. Licensing authority.—The authority having power to grant licences under this Part (hereinafter referred to as the licensing authority) shall be the district magistrate:

Provided that the State Government may, by notification in the Official Gazette, constitute, for the whole or any part of a Part C State, such other authority as it may specify in the notification to be the licensing authority for the purposes of this Part.

12. Restrictions on powers of licensing authority.—(1) The licensing authority shall not grant a licence under this Part, unless it is satisfied that—

- (a) the rules made under this Part have been substantially complied with, and
- (b) adequate precautions have been taken in the place, in respect of which the licence is to be given, to provide for the safety of persons attending exhibitions therein.

(2) Subject to the foregoing provisions of this section and to the control of the State Government, the licensing authority may grant licences under this Part to such persons as that authority thinks fit and on such terms and conditions and subject to such restrictions as it may determine.

(3) Any person aggrieved by the decision of a licensing authority refusing to grant a licence under this Part may, within such time as may be prescribed, appeal to the State Government or to such officer as the State Government may specify in this behalf and the State Government or the officer, as the case may be, may make such order in the case as it or he thinks fit.

(4) The Central Government may, from time to time, issue directions to licensees generally or to any licensee in particular for the purpose of regulating the exhibition of any film or class of films, so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited, and where any such directions have been issued those directions shall be deemed to be additional conditions and restrictions subject to which the licence has been granted.

13. Power of Central Government or local authority to suspend exhibition of films in certain cases.—(1) The Lieutenant-Governor or, as the case may be, the Chief Commissioner, in respect of the whole Part C State or any part thereof, and the district magistrate in respect of the district within his jurisdiction, may, if he is of opinion that any film which is being publicly exhibited is likely to cause a breach of the peace, by order, suspend the exhibition of the film and during such suspension the film shall be deemed to be an uncertified film in the State, part or district, as the case may be.

(2) Where an order under sub-section (1) has been issued by the Chief Commissioner or a district magistrate, as the case may be, a copy thereof, together with a statement of reasons therefor, shall forthwith be forwarded by the person making the same to the Central Government, and the Central Government may either confirm or discharge the order.

(3) An order made under this section shall remain in force for a period of two months from the date thereof, but the Central Government may, if it is of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as it thinks fit.

14. Penalties for contravention of this Part.—If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used in contravention of the provisions of this Part or of the rules made thereunder, or of the conditions and restrictions upon or subject to which any licence has been granted under this Part, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

15. Power to revoke licence.—Where the holder of a licence has been convicted of an offence under section 7 or section 14, the licence may be revoked by the licensing authority.

16. Power to make rules.—The Central Government may, by notification in the Official Gazette, make rules—

- (a) prescribing the terms, conditions and restrictions, if any, subject to which licences may be granted under this Part;
- (b) providing for the regulation of cinematograph exhibitions for securing the public safety;
- (c) prescribing the time within which and the conditions subject to which an appeal under sub-section (3) of section 12 may be preferred.

17. Power to exempt.—The Central Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Part or of any rules made thereunder.

PART IV.

REPEAL.

18. Repeal.—The Cinematograph Act, 1918 (II of 1918), is hereby repealed:

Provided that in relation to Part A States and Part B States the repeal shall have effect only in so far as the said Act relates to the sanctioning of cinematograph films for exhibition.

K. V. K. SUNDARAM, Secy.

Registered No. C207

The



Calcutta



Gazette

স্বতন্ত্র ভাৰত

THURSDAY, MAY 1, 1952.

PART V—Acts of the Parliament of India assented to by the President
and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on 15th April 1952, and is hereby published for general information :—

ACT NO. XXXVIII OF 1952.

THE DELHI AND AJMER RENT CONTROL ACT, 1952.

An Act to provide for the control of rents and evictions, and for the lease of vacant premises to Government, in certain areas in the States of Delhi and Ajmer.

Be it enacted by Parliament as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Delhi and Ajmer Rent Control Act, 1952.

(2) It extends to the areas specified in the First Schedule and may be extended by the Central Government, by notification in the Official Gazette, to such other areas in the State of Delhi or Ajmer as may, from time to time, be specified in the notification:

Provided that the Central Government may, at any time, by a like notification direct that it shall cease to be in force in any such area, and with effect from such date, as may be specified in the notification.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “fair rate” means the fair rate fixed under section 24 and includes the rate as revised under section 25;

(b) “hotel or lodging house” means a building or part of a building where lodging with or without board or other services is provided for a monetary consideration;

- (c) "landlord" means a person who, for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account or on account of, or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant;
- (d) "lawful increase" means an increase in rent permitted under the provisions of this Act;
- (e) "manager of a hotel" includes any person in charge of the management of the hotel;
- (f) "owner of a lodging house" means a person who receives or is entitled to receive whether on his own account or on behalf of himself and others or as an agent or a trustee for any other person, any monetary consideration from any person on account of board, lodging or other services;
- (g) "premises" means any building or part of a building which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes—
 - (i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building;
 - (ii) any furniture supplied by the landlord for use in such building or part of a building;
 but does not include a room in a hotel or lodging house.
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "standard rent", in relation to any premises, means,—
 - (i) where the standard rent has been fixed by the court under section 8, the rent so fixed; or
 - (ii) where the standard rent has not been fixed under section 8, the standard rent of the premises as determined in accordance with the provisions of the Second Schedule;
- (j) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under a tenant under the provisions of any law before the commencement of this Act.

3. Act not to apply to certain premises.—Nothing in this Act shall apply—

- (a) to any premises belonging to the Government; or
- (b) to any tenancy or other like relationship created by a grant from the Government in respect of the premises taken on lease, or requisitioned, by the Government.

CHAPTER II.

STANDARD RENT AND PROVISIONS RELATING TO OTHER CHARGES BY THE LANDLORD.

4. Rent in excess of standard rent not recoverable.—(1) Except where rent is liable to periodical increase by virtue of an agreement entered into before the 1st day of January, 1939 or where rent is payable under a lease entered into before the 1st of January, 1939, which has not expired before the first day of the period for which the rent is claimed, no tenant shall, notwithstanding any agreement to the contrary, be liable to pay to his

landlord for the occupation of any premises any amount in excess of the standard rent of the premises unless such amount is a lawful increase of the standard rent in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (1), any agreement for the payment of rent in excess of the standard rent shall be null and void and shall be construed as if it were an agreement for the payment of the standard rent only.

5. Unlawful charges not to be claimed or received.—(1) Subject to the provisions of this Act, no person shall claim or receive any rent in excess of the standard rent, notwithstanding any agreement to the contrary.

(2) No person shall, in consideration of the grant, continuance or renewal of a tenancy or sub-tenancy of any premises, claim or receive the payment of any premium, *pugree*, fine, advance or any other like sum in addition to the rent.

Explanation.—Receipt of rent in advance for a period not exceeding one month shall not be deemed to be an advance within the meaning of this section.

(3) It shall not be lawful for the tenant or any other person acting or purporting to act on behalf of the tenant or a sub-tenant to claim or receive any payment in consideration of the relinquishment of his tenancy or sub-tenancy, as the case may be, of any premises.

(4) Nothing in this section shall apply—

(a) to any payment made in pursuance of an agreement entered into before the 1st day of November, 1939; or

(b) to any payment made under an agreement by any person to a landlord for the purpose of financing the construction of the whole or part of any premises on the land belonging to the landlord, if one of the conditions of the agreement is that the landlord is to let to such person the whole or part of the premises when completed for the use of such person or any member of his family:

Provided that such payment does not exceed the amount of agreed rent for a period of five years of the whole or part of the premises to be let to such person.

Explanation.—For the purposes of clause (b) of this sub-section, a "member of the family" means, in the case of an undivided Hindu family, any member of such family and in the case of any other family, the husband, wife, son, daughter, father, mother, brother, sister or any other person dependent on him.

6. Lawful increases of standard rent.—(1) Where a landlord has at any time, whether before or after the commencement of this Act, incurred expenditure for any improvement, addition or structural alteration in the premises, not being expenditure on decoration or tenantable repairs necessary or usual for such premises, and the cost of that improvement, addition or alteration has not been taken into account in determining the standard rent of the premises, the landlord may lawfully increase the standard rent per year by an amount not exceeding seven and a half per cent. of such cost.

(2) Where a landlord pays in respect of the premises any charge for electricity or water consumed in the premises or any other charge levied by a local authority having jurisdiction in the area which is ordinarily

payable by the tenant; he may recover from the tenant any amount so paid by him; but no landlord shall recover from the tenant whether by means of an increase in rent or otherwise, the amount of any tax on building or land imposed in respect of the premises occupied by the tenant:

Provided that nothing in this sub-section shall affect the liability of any tenant under an agreement entered into before the 1st day of January, 1952, whether express or implied, to pay from time to time the amount of any such tax as aforesaid.

(3) Where a part of the premises let for use to a tenant has been sublet by him—

(a) the landlord may lawfully increase the rent payable by the tenant—

(i) in the case of any premises let for residential purposes, by an amount not exceeding twelve and one-half per cent. of the standard rent of the part sub-let;

(ii) in the case of any premises let for other purposes, by an amount not exceeding twenty-five per cent. of the standard rent of the part sub-let;

(b) the tenant may lawfully increase the rent payable by the sub-tenant—

(i) in the case of any premises let for residential purposes, by an amount not exceeding twenty-five per cent. of the standard rent of the part sub-let; and

(ii) in the case of any premises let for other purposes, by an amount not exceeding fifty per cent. of the standard rent of the part sub-let;

(c) the tenant shall, on being so requested in writing by the landlord, supply, within fourteen days of such request being made, a statement in writing giving full particulars of any sub-letting including the rent charged.

7. Notice of increase of, or addition to, rent.—(1) Where a landlord wishes to increase the rent of any premises, he shall give the tenant notice of his intention to make the increase and in so far as such increase is lawful under this Act, it shall be due and recoverable only in respect of the period of the tenancy after the end of the month in which the notice is given.

(2) Every notice under sub-section (1) shall be in writing signed by or on behalf of the landlord and given in the manner provided in section 106 of the Transfer of Property Act, 1882 (IV of 1882).

(3) For the avoidance of doubt, it is hereby declared that the provisions of this section apply equally to any increase in rent payable by the sub-tenant.

8. Cases in which standard rent may be fixed by court.—(1) In any of the following cases, namely:—

(a) where, for any reason whatsoever, any dispute arises between a landlord and the tenant regarding the amount of standard rent payable in respect of any premises in accordance with the provisions of the Second Schedule; or

(b) where, at any time on or after the 2nd day of June, 1944, any premises are first let and the rent at which they are let is, in the opinion of the court, unreasonable;

the court may, on an application made to it for the purpose or in any suit or proceeding, fix the standard rent at such an amount as, having regard to the provisions of this Act and the circumstances of the case, the court deems just.

(2) Where there is any dispute between the landlord and the tenant regarding the amount which is a lawful increase of the standard rent, the court may determine such amount.

(3) Where for any reason it is not possible to determine the standard rent of any premises on the principles set forth in the Second Schedule, the court may, on an application made to it for the purpose, determine the standard rent, and in so doing, shall have regard to the standard rent of similar premises in the same locality and other circumstances of the case.

(4) In fixing the standard rent of any premises under clause (b) of subsection (1), the court shall fix an amount which appears to it to be reasonable and no standard rent so fixed shall exceed seven and one-half per cent. of the reasonable cost of construction of such premises.

Explanation.—For the purposes of this sub-section, the "cost of construction", in respect of any premises, includes the market value of the land comprised in the premises at the time of the completion of such construction.

(5) The standard rent shall in all cases be fixed as for a tenancy of twelve months:

Provided that where any premises are let or re-let for a period of less than twelve months, the standard rent for such tenancy shall bear the same proportion to the annual standard rent as the period of tenancy bears to twelve months.

(6) Where the court determines the standard rent of any premises under this section, the court shall determine the standard rent of the premises in an unfurnished state, and may also determine an additional charge to be payable on account of any fittings or furniture supplied by the landlord and it shall be lawful for the landlord to recover such additional charge from the tenant.

(7) In every case in which the court determines the standard rent of any premises under this section, it shall specify a date from which the standard rent so determined shall be deemed to have effect:

Provided that in no case, the date so specified shall be earlier than six months prior to the date of filing of the application for the determination of the standard rent or, as the case may be, of the institution of the suit or proceeding in which the standard rent is determined.

9. Fixation of interim rent by the court.—If an application for fixing the standard rent or for determining the lawful increase of such rent is made under section 8, the court shall, as expeditiously as possible, make an order specifying the amount of the rent or the lawful increase to be paid by the tenant to the landlord pending the final decision of the application and shall appoint a date from which the rent or lawful increase so specified shall be deemed to have effect.

10. Limitation of liability of middleman.—No collector of rents or middleman shall be liable to pay to his principal, in respect of any premises, any sum by way of rental charges which exceeds the amount which he is entitled under this Act to realise from the tenant or tenants of the premises.

11. Limitation for applications for fixation of standard rent.—Any landlord or tenant may file an application to the court for fixing the standard rent of the premises or for determining the lawful increase of such rent—

- (a) in the case of any premises which were let, or in which the cause of action for lawful increase of rent arose, before the commencement of this Act, within six months from such commencement;
- (b) in the case of any premises let after the commencement of this Act, within six months from the date on which it is so let; and
- (c) in the case of any premises in which the cause of action for lawful increase of rent arises after the commencement of this Act within six months from that date:

Provided that the court may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

12. Refund of rent, premium, etc., not recoverable under this Act.—Where any amount has been paid by any person whether before or after the commencement of this Act,—

- (a) on account of rent, being an amount which is by reason of the provisions of this Act, not recoverable, or
- (b) as premium, pugree, fine advance or other like sum in addition to the rent, the receiving of which is prohibited under this Act.

the court may, on an application made to it in this behalf at any time within a period of six months from the date of such payment, direct the landlord by whom or on whose behalf the amount was received to refund the amount to such person or, if such person is a tenant, direct that the amount so paid shall be deducted from the rent payable by the tenant to the landlord.

CHAPTER III.

CONTROL OF EVICTION OF TENANTS.

13. Protection of a tenant against eviction.—(1) Notwithstanding any thing to the contrary contained in any other law or any contract no decree or order for the recovery of possession of any premises shall be passed by any court in favour of the landlord against any tenant (including a tenant whose tenancy is terminated):

Provided that nothing in this sub-section shall apply to any suit or other proceeding for such recovery of possession if the court is satisfied—

- (a) that the tenant has neither paid nor tendered the whole of the arrear of rent due within one month of the date on which a notice of demand for the arrears of rent has been served on him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882 (IV of 1882); or
- (b) that the tenant without obtaining the consent of the landlord in writing has, after the commencement of this Act,—
 - (i) sub-let, assigned or otherwise parted with the possession of, the whole or any part of the premises; or
 - (ii) used the premises for a purpose other than that for which they were let; or

- (a) that the tenant, without obtaining the consent of the landlord, has, before the commencement of this Act,—
 - (i) sub-let, assigned or otherwise parted with the possession of, the whole or any part of the premises; or
 - (ii) used the premises for a purpose other than that for which they were let; or
- (d) that the premises were let for use as a residence and neither the tenant nor any member of his family has been residing therein for a period of six months immediately before the date of the institution of any suit or proceeding for recovery of possession; or
- (e) that the premises let for residential purposes are required *bona fide* by the landlord who is the owner of such premises for occupation as a residence for himself or his family and that he has no other suitable accommodation;

Explanation.—For the purposes of this clause, “residential premises” include any premises which having been let for use as a residence are, without the consent of the landlord, used incidentally for commercial or other purposes; or

- (f) that the premises have become unsafe or unfit for human habitation and are *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated; or
 - (g) that the premises are *bona fide* required by the landlord for the purpose of re-building the premises or for the replacement of the premises by any building or for the erection of other buildings and that such building or re-building cannot be carried out without the premises being vacated; or
 - (h) that the tenant has, whether before or after the commencement of this Act, built, acquired vacant possession of, or been allotted, a suitable residence; or
 - (i) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment; or
 - (j) that the conduct of the tenant is such that it is a nuisance or that it causes annoyance to the occupiers of the neighbouring premises or other occupiers of the same premises; or
 - (k) that the tenant has, whether before or after the commencement of this Act, caused or permitted to be caused substantial damage to the premises, or notwithstanding previous notice has used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government or the Delhi Improvement Trust while giving him a lease of the land on which the premises are situated; or
 - (l) that the landlord requires the premises in order to carry out any building work at the instance of the Government or the Delhi Improvement Trust in pursuance of any improvement scheme or development scheme.
- (2) No decree or order for recovery of possession shall be passed on the ground specified in clause (a) of the proviso to sub-section (1), if, on the first day of the hearing of the suit or within such further time as may be

allowed by the court, the tenant pays in court the arrears of rent then due together with the costs of the suit.

(3) For the purposes of clause (b) or clause (c) of the proviso to subsection (1), a court may presume that the premises let for use as a residence were or are sub-let by a tenant in whole or in part to another person, if it is satisfied that such person not being a servant of the tenant or a member of the family of such servant was or has been residing in the premises or any part thereof for a period exceeding one month otherwise than in commonalty with the tenant.

(4) Where a decree for recovery of possession is passed on the grounds specified in clause (e) of the proviso to sub-section (1), the landlord shall not be entitled to obtain possession of the premises by an order of the court before the expiration of a period of three months from the date of the decree.

(5) If the tenant contests the suit as regards the claim for ejectment, the plaintiff-landlord may make an application at any stage of the suit for an order on the tenant-defendant to deposit month by month rent at a rate at which it was last paid and also the arrears of rent, if any, and the court, after giving an opportunity to the parties to be heard, may make an order for the deposit of rent at such rate month by month as it thinks fit and the arrears of rent, if any, and on the failure of the tenant to deposit the arrears of rent within fifteen days of the date of the order or to deposit the rent at such rate for any month by the 15th of the next following month, the court shall order the defence against ejectment to be struck out and the tenant to be placed in the same position as if he had not defended the claim to ejectment; and the landlord may withdraw the amount of money in deposit without prejudice to his claim to any decree or order for recovery of possession of the premises.

(6) For avoidance of doubts it is hereby declared that nothing in this section shall apply to any decree or order for recovery of possession of any premises passed before the commencement of this Act.

14. Recovery of possession for occupation and re-entry.—Where a landlord recovers possession of any premises from the tenant by virtue of any decree or order made on the grounds specified in clause (e) of the proviso to sub-section (1) of section 13 and the premises are not occupied by the landlord as a residence for himself or his family within two months of obtaining such possession or the premises having been so occupied, are, at any time within eight months of such occupation, re-let in whole or in part to any person other than the evicted tenant, the court may, on the application of such evicted tenant, place him in vacant possession of the premises and award such damages to him as it thinks fit against the landlord.

15. Recovery of possession for repairs and re-building and re-entry.—(1) The court shall, when passing any decree or order on the grounds specified in clause (f) or clause (g) of the proviso to sub-section (1) of section 13, ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and if the tenant so elects, shall record the fact of the election in the decree or order and specify therein the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs or building or re-building, as the case may be.

(2) If the tenant delivers possession on or before the date specified in the decree or order, the landlord shall, on the completion of the work of repairs or building or re-building place the tenant in occupation of the premises or part thereof.

(3) If, after the tenant has delivered possession on or before the date specified in the decree or order, the landlord fails to commence the work of repairs or building or re-building within one month of the specified date or fails to complete the work in a reasonable time or having completed the work, fails to place the tenant in occupation of the premises in accordance with sub-section (2), the court may, on the application of the tenant made within one year from the specified date, order the landlord to place the tenant in occupation of the premises or part thereof on the original terms and conditions or to pay to such tenant such compensation as may be fixed by the court.

16. Recovery of possession in case of tenancies for limited period.— Where a landlord does not require the whole or any part of any premises for a particular period and he lets the premises or part thereof as a residence for such period as may be agreed to in writing between himself and the tenant and the tenant does not, on the expiry of the said period, vacate such premises, the court may, on an application of such landlord, place him in vacant possession of the premises or part thereof by evicting the tenant and every other person who may be in occupation of such premises.

17. Special provision for recovery of possession in certain cases.— Where the landlord in respect of any premises is any company or other body corporate or any local authority, or any public institution and the premises are required for the use of employees of such landlord or in the case of a public institution, for the furtherance of its activities, then, notwithstanding anything contained in section 13, the court may, on an application of such landlord, place him in vacant possession of such premises by evicting the tenant and every other person who may be in occupation thereof, if the court is satisfied—

- (a) that the tenant, to whom such premises were let for use as a residence at a time when he was in the service or employment of the landlord, has ceased to be in such service or employment; or
- (b) that the tenant has acted in contravention of the terms, express or implied, under which he was authorised to occupy such premises; or
- (c) that any person is in unauthorised occupation of such premises; or
- (d) that the premises are *bona fide* required by the public institution for the furtherance of its activities.

Explanation.—For the purposes of this section, public institution includes any educational institution, library, hospital and charitable dispensary.

18. Permission to construct additional structures.— Where the landlord proposes to make any improvement in, or construct any additional structure on, any building which has been let to a tenant and the tenant refuses to allow the landlord to make such improvement or construct such additional structure, the landlord may apply to the court and the court may, if it is satisfied that the landlord is ready and willing to commence the work and that such work will not cause any undue hardship to the tenant, permit the landlord to do such work and may make such other orders as it thinks fit in the circumstances of the case.

19. Special provision regarding vacant building sites.— (1) The provisions of this section shall apply notwithstanding anything contained in section 13, but only in relation to premises in such areas as the Central Government may, from time to time, specify by notification in the Official Gazette.

(2) Where any premises which have been let comprise vacant grounds upon which it is permissible under the building regulations or other municipal bye-laws for the time being in force to erect any building, whether for use as a residence or any other purpose and the landlord proposing to erect such building is unable to obtain possession of these grounds from the tenant by agreement with him, the landlord may apply to the court, and the court may, if it is satisfied that the landlord is ready and willing to commence the work and that the severance of the vacant grounds from the rest of the premises will not cause undue hardship to the tenant,—

- (a) direct such severance,
- (b) place the landlord in possession of the vacant grounds,
- (c) determine the rent payable by the tenant thereafter in respect of the rest of the premises, and
- (d) make such other orders as it thinks fit in the circumstances of the case.

20. Sub-tenant to become tenant on determination of tenancy.—Where the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the whole or any part of such premises has been lawfully sub-let whether before or after the commencement of this Act shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions on which he would have held from the tenant if the tenancy had continued.

21. Vacant possession to the landlord.—Notwithstanding anything contained in any other law, where the interest of a tenant in any premises is determined for any reason whatsoever and any decree or order is passed by a court under this Act for the recovery of possession of such premises, the decree or order shall, subject to the provisions of section 20, be binding on all persons who may be in occupation of the premises and vacant possession thereof shall be given to the landlord by evicting all such persons therefrom:

Provided that nothing in this section shall apply to any person who has an independent title to such premises.

CHAPTER IV.

HOTELS AND LODGING HOUSES.

22. Application of this Chapter.—The provisions of this Chapter shall apply to all hotels and lodging houses within the Municipalities of New Delhi and Delhi and the Notified Area of the Civil Station, Delhi and may be applied by the Central Government, by notification in the Official Gazette to such other areas in the State of Delhi or Ajmer as may be specified in the notification.

23. Appointment of Controller.—The Central Government may, by notification in the Official Gazette, appoint any person to be a Controller for the purpose of performing the functions assigned to him by this Chapter.

24. Fixing of fair rate.—(1) Where the Controller, on a written complaint or otherwise, has reason to believe that the charges made for board or lodging or any other service provided in any hotel or lodging house are excessive, he may fix a fair rate to be charged for board, lodging or other services provided in the hotel or lodging house and in fixing such fair rate specify separately the rate for lodging, board or other services.

(2) In determining the fair rate under sub-section (1), the Controller shall have regard to the circumstances of the case and to the prevailing rate of charges for the same or similar accommodation, board and service, during the twelve months immediately preceding the 1st day of September, 1939 and to any general increase in the cost of living after that date.

25. Revision of fair rate.—On a written application from the manager of a hotel or the owner of a lodging house or otherwise, the Controller may, from time to time, revise the fair rate to be charged for board, lodging or other service, and fix such rate as he may deem fit having regard to any general rise or fall in the cost of living which may have occurred after the fixing of fair rate.

26. Charges in excess of fair rate not recoverable.—When the Controller has determined the fair rate of charges—

- (a) the manager of the hotel or the owner of the lodging house, as the case may be, shall not charge any amount in excess of the fair rate and shall not, except with the previous written consent of the Controller, withdraw from the lodgers any concession or service allowed at the time when the Controller determined the fair rate;
- (b) any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate;
- (c) any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of the payment from the manager of the hotel or the owner of the lodging house or his legal representatives and may, without prejudice to any other mode of recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

27. Provisions relating to inquiries by Controller.—(1) No fair rate under this Chapter shall be fixed by the Controller except after holding an inquiry.

(2) Every such inquiry shall be made summarily in the prescribed manner.

(3) For the purposes of holding any inquiry under sub-section (1), the Controller may require the manager of a hotel or the owner of a lodging house to produce before him any books of account, documents or other information relating to the hotel or lodging house concerned which he may consider necessary and may himself enter, or authorise any person subordinate to him to enter, upon any premises to which the inquiry relates.

28. Recovery of possession by manager of a hotel or the owner of a lodging house.—Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying—

- (a) that the lodger has been guilty of conduct which is a nuisance or which causes annoyance to any adjoining or neighbouring lodger;
- (b) that the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or any other cause which may be deemed satisfactory by the Controller;

- (c) that the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof;
- (d) that the lodger has done any act which is inconsistent with the purpose for which the accommodation was given to him or which is likely to affect adversely or substantially the owner's interest therein;
- (e) that the lodger has failed to pay the rent due from him.

29. Appeals.—(1) Any person aggrieved by the order of the Controller under this Chapter may, within fifteen days on which the order is communicated to him, prefer an appeal in writing to the Chief Commissioner.

(2) The Chief Commissioner shall call for the record of the Controller and after examining the record and after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal.

(3) The decision of the Chief Commissioner and subject only to such decision, the order of the Controller shall, for the purposes of this Chapter, be final.

30. Penalty.—Any manager of a hotel or owner of a lodging house who—

- (i) fails or refuses to produce before the Controller any books of account or document or other information which the Controller may require him to produce under sub-section (3) of section 27, or refuses to allow the Controller or any person authorised by him under the said sub-section access to the premises to which the inquiry relates; or
- (ii) charges any amount in excess of the fair rate in contravention of section 26,

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

31. Controller to be deemed to be public servant.—A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

32. Protection of action taken under this Chapter.—No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything which is in good faith done or intended to be done under this Chapter.

CHAPTER V.

JURISDICTION OF COURTS, APPEALS, REVIEW AND REVISION.

33. Jurisdiction of courts.—(1) Any civil court in the State of Delhi or Ajmer which has jurisdiction to hear and decide a suit for recovery of possession of any premises shall have jurisdiction to hear and decide any case under this Act relating to such premises if it has pecuniary jurisdiction and is otherwise competent to hear and decide such a case under any law for the time being in force.

(2) The value of any case under this Act, for the purposes of the pecuniary jurisdiction of the court, shall be determined by the amount of rent which is or would be payable for a period of twelve months, calculated according to the highest amount claimed in the case:

Provided that in the case of any proceeding based on the certificate of the Controller under section 28, such value shall be determined by the amount of rent which is or would be payable for a period of one month.

(3) If any question arises whether any suit, application or other proceeding is a case under this Act, the question shall be determined by the court.

(4) For the purposes of this Chapter, a case under this Act, includes any suit, application or other proceeding under this Act and also includes any claim or question arising out of this Act or any of its provisions but does not include any proceeding which a Controller is empowered to decide under Chapter IV.

34. Appeals.—(1) Any person aggrieved by any decree or order of a court passed under this Act may, in such manner as may be prescribed, prefer an appeal—

(a) to the court of the senior subordinate judge, if any, where the value of the case does not exceed two thousand rupees:

Provided that where there is no senior subordinate judge, the appeal shall lie to the district judge;

(b) to the court of the district judge, where the value of the case exceeds two thousand rupees but does not exceed ten thousand rupees; and

(c) to the High Court, where the value of the case exceeds ten thousand rupees.

(2) No second appeal shall lie from any decree or order passed in any case under this Act.

35. Revision and review.—(1) The High Court may, at any time, call for the record of any case under this Act for the purpose of satisfying itself that a decision made therein is according to law and may pass such order in relation thereto as it thinks fit.

(2) Any court may, after giving notice to the parties, review its own order.

36. Limitation.—Subject to the provisions of Part II and Part III of the Indian Limitation Act, 1908 (IX of 1908), any person aggrieved by a decree or an order passed in any case under this Act may prefer an appeal—

(a) where it lies to any court other than the High Court, within thirty days from the date of such decree or order; and

(b) where it lies to the High Court, within sixty days from the date of such decree or order.

37. Procedure before courts.—Subject to any rules that may be made under this Act, the court may hold a summary inquiry into any case under this Act (other than a suit for eviction under section 13 in which the question of title is involved) and the practice and the procedure of a court of small causes shall, as far as may be, apply to such cases as if they were suits and other proceedings cognizable by a court of small causes.

CHAPTER VI. MISCELLANEOUS.

38. Act to over-ride other laws.—The provisions of this Act and of the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

39. Exemption of certain premises from the operation of the Act.—All premises, the construction of which is completed after the 1st day of June, 1951, but before the expiry of three years from the commencement of this Act, shall be exempt from the operation of all the provisions of this Act for a period of seven years from the date of such completion.

40. Landlord's duty to keep the premises in good repair.—(1) Notwithstanding anything contained in any law for the time being in force, and in the absence of agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenable repair.

(2) If the landlord neglects or fails to make within a reasonable time, after notice in writing any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

(3) Where any repairs without which the premises are not habitable or useable except with undue inconvenience are to be made and the landlord neglects or fails to make them after notice in writing, the tenant may apply to the court for permission to make such repairs himself, provided that the cost of such repairs does not exceed rent for a period of two years payable by that tenant and where such repairs are made with the permission of the court, the limitation as to the amount deductible or recoverable as provided in sub-section (2) shall not apply.

41. Cutting off or withholding essential supply or service.—(1) No landlord either himself or through any person purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(2) If a landlord contravenes the provisions of sub-section (1), the tenant may make an application to the court complaining of such contravention.

(3) If the court is satisfied that the essential supply or service was cut off or withheld by the landlord with a view to compel the tenant to vacate the premises or to pay an enhanced rent, the court may pass an order directing the landlord to restore the amenities immediately pending the inquiry referred to in sub-section (4).

Explanation.—An interim order may be passed under this sub-section without giving notice to the landlord.

(4) If the court on inquiry finds that the essential supply or service enjoyed by the tenant in respect of the premises was cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such supply or service.

(5) The court may in its discretion direct that compensation not exceeding fifty rupees—

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord if the landlord had cut off or withheld the supply or service without just or sufficient cause.

Explanation.—In this section, “essential supply or service” includes supply of water, electricity, lights in passages and on staircases, conservancy and sanitary services.

42. Landlord's duty to give notice of new constructions to Government.—Whenever, after the commencement of this Act, any premises are constructed, the landlord shall, within thirty days of the completion of such construction, give intimation thereof in writing to the Estate Officer to the Government of India or to such other officer as may be specified in this behalf by the Government.

43. Leases of vacant premises to Government.—(1) The provisions of this section shall apply only in relation to premises within the Municipality of New Delhi which are, or are intended to be, let for use as a residence.

(2) Whenever any premises the standard rent of which is not less than two thousand and four hundred rupees per year becomes vacant, either by the landlord ceasing to occupy the premises or by the termination of a tenancy or by the eviction of a tenant or by the release of the premises from requisition or otherwise,—

- (a) the landlord shall, within seven days of the premises becoming vacant, give intimation thereof in writing to the Estate Officer to the Government of India;
- (b) whether or not such intimation is given, the Estate Officer may serve on the landlord by post or otherwise a notice—
 - (i) informing him that the premises are required by the Government for such period as may be specified in the notice, and
 - (ii) requiring him, and every person claiming under him, to deliver possession of the premises forthwith to such officer or person as may be specified in the notice:

Provided that where the landlord has given the intimation required by clause (a) no notice shall be issued by the Estate Officer under clause (b) more than seven days after the delivery to him of the intimation:

Provided further that nothing in this sub-section shall apply in respect of any premises the possession of which has been obtained by the landlord on the basis of any decree or order made on the grounds set forth in clause (e) of the proviso to sub-section (1) of section 13 or in respect of any premises which have been released from requisition for the use and occupation of the landlord himself.

(3) Upon the service of a notice under clause (b) of sub-section (2), the premises shall be deemed to have been leased to the Government for the period specified in the notice, as from the date of the delivery of the intimation under clause (a) of sub-section (2) or in a case where no such intimation has been given, as from the date on which possession of the premises is delivered in pursuance of the notice, and the other terms of the lease shall be such as may be agreed upon between the Government and the landlord or in default of agreement, as may be determined by the court, in accordance with the provisions of this Act.

(4) In every case where the landlord has in accordance with the provisions of sub-section (2) given intimation of any premises becoming vacant and the premises are not taken on lease by the Government under this section, the Government shall pay to the landlord a sum equal to one-fifty-second of the standard rent per year of the premises.

(5) Any premises taken on lease by the Government under this section may be put to any such use as the Government thinks fit, and in particular the Government may permit the use of the premises for the purposes of any public institution or any foreign embassy, legation or consulate or any High

Commissioner or Trade Commissioner, or as a residence by any officer in the service of the Government or of a foreign embassy, legation or consulate or of a High Commissioner or Trade Commissioner.

44. Penalties.—(1) If any person receives any payment in contravention of the provisions of section 5, he shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to an amount exceeding one thousand rupees by the amount of unlawful charges so received by him, or with both.

(2) If any tenant fails to comply with the provisions of clause (c) of sub-section (3) of section 6, or supplies under that clause, a statement which is false in any material particular, he shall be punishable with fine which may extend to one thousand rupees.

(3) If any tenant sub-lets the whole or part of any premises in contravention of the provisions of clause (b) of the proviso to sub-section (1) of section 13, he shall be punishable with fine which may extend to one hundred rupees.

(4) If any landlord contravenes the provisions of section 41, he shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.

(5) If any landlord fails to comply with the provisions of section 42, he shall be punishable with fine which may extend to one hundred rupees.

(6) If any person contravenes the provisions of clause (a) of sub-section (2) of section 43, or fails to comply with a requirement under clause (b) thereof, he shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(7) No court shall take cognizance of an offence punishable under sub-section (1) unless the complaint in respect of the offence has been made within three months from the date of the commission of the offence.

(8) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any magistrate of the first class may pass a sentence of fine exceeding one thousand rupees on a person convicted of an offence punishable under sub-section (1).

45. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of service of notice under this Act;

(b) the procedure to be followed by courts for hearing suits, applications or other legal proceedings and in executing degrees or orders passed by such courts;

(c) the manner in which courts may hold sum

(d) levy of court-fees and other fees for suits, applications and other proceedings under this Act;

(e) the manner in which a Controller may hold inquiry under Chapter IV;

(f) any other matter which has to be, or may be, prescribed.

48. Repeals and savings.—(1) The Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947) is hereby repealed.

(2) Notwithstanding such repeal, all suits and other proceedings pending at the commencement of this Act, whether before any court or the Rent Controller appointed under the Fourth Schedule to the said Act, shall be disposed of in accordance with the provisions of the said Act as if the said Act had continued in force and this Act had not been passed:

Provided that the procedure laid down in this Act shall, as far as may be, apply to suits and other proceedings pending before any court.

(3) Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944 (Bombay Act VII of 1944) as extended to the Municipality of New Delhi, the Notified Area of the Civil Station, Delhi and the Municipality of Delhi by a notification of the Government of India in the late Department of Works, Mines and Power No. 1884-W.II/47, dated the 18th March, 1947 shall cease to have effect in the said areas; and for the removal of doubts, it is hereby declared that section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to such lesser as it applies in relation to the repeal of an enactment by a Central Act.

THE FIRST SCHEDULE.

[See section 1(2).]

AREAS TO WHICH THE ACT EXTENDS.

A. *The State of Delhi*—

1. The Municipality of Delhi;
2. The Municipality of New Delhi;
3. The Cantonment of Delhi;
4. The Notified Area of the Civil Station, Delhi;
5. The Municipality of Shahdara;
6. The Notified Area, Red Fort;
7. The West Notified Area, Delhi.

B. *The State of Ajmer*—

1. The Municipality of Ajmer and all land within one mile of the limits of that Municipality;
2. The Municipality of Beawar and all land within one mile of the limits of that Municipality;
3. The Cantonment of Nasirabad and all land within one mile of the limits of that Cantonment.

THE SECOND SCHEDULE.

[See section 2 (i).]

PART A.

PROVISIONS FOR DETERMINING THE STANDARD RENT OF PREMISES IN THE STATE OF DELHI.

1. In this Part of this Schedule, "basic rent" in relation to any premises means—

- (a) where the fair rent of the premises has been determined or redetermined under the provisions of the New Delhi House Rent Control Order, 1939, the rent as so determined, or, as the case may be, redetermined;
- (b) where the standard rent of the premises has been fixed by the court under section 7 of the Delhi Rent Control Ordinance, 1944 (XXXV of 1944), the rent as so fixed;
- (c) in any other case,—
 - (i) the rent at which the premises were let on the 1st day of November, 1939, or
 - (ii) if the premises were not let on that date, the rent at which they were first let at any time after that date but before the 2nd day of June, 1944.

2. Where the premises in respect of which rent is payable were let, for whatever purpose, on or after the 2nd day of June, 1944, the standard rent of the premises shall be—

- (a) where the standard rent of the premises has been fixed by the Rent Controller under the provisions of the Fourth Schedule to the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947), such standard rent; or
- (b) where the standard rent has been fixed by the court under clause (b) of sub-section (1) of section 8, such standard rent; or
- (c) in any other case, so long as the standard rent is not fixed by the court, the rent at which the premises were first let.

3. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are let for the purpose of being used as a residence or for any of the purposes of a public hospital, an educational institution, a public library or reading-room or an orphanage, the standard rent of the premises shall be the basic rent increased by—

- (a) 12½ per cent. thereof, if the basic rent per annum is not more than Rs. 300;
- (b) 15½ per cent. thereof, if the basic rent per annum is more than Rs. 300 but not more than Rs. 600;
- (c) 18½ per cent. thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200; or
- (d) 25 per cent. thereof, if the basic rent per annum is more than Rs. 1,200.

4. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are let for any purpose other than those mentioned in paragraph 3, the standard rent of the premises shall be the basic rent increased by twice the amount by which it would be increased under paragraph 3 if the premises were let for a purpose mentioned in that paragraph.

5. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are used mainly as a residence and incidentally for business or profession, the standard rent of the premises shall be the mean of the rent as calculated under paragraph 3 and 4.

PART B.

PROVISIONS FOR DETERMINING THE STANDARD RENT OF PREMISES IN THE STATE OF AJMER.

1. In this Part of this Schedule, "basic rent" in relation to any premises means—

- (a) where the fair rent of the premises has been determined or redetermined under the provisions of the Ajmer House Rent Control Order, 1943, the rent as so determined or, as the case may be, redetermined;
- (b) in any other case,—
 - (i) the rent at which the premises were let on the 1st day of September, 1939, or
 - (ii) if the premises were not let on that date, the rent at which they were first let at any time after that date but before the 2nd day of June, 1944.

2. Where the premises in respect of which rent is payable were let, for whatever purpose on or after the 2nd day of June, 1944, the standard rent of the premises shall be—

- (a) where the standard rent has been fixed by the court under clause (b) of sub-section (I) of section 8, such standard rent; or
- (b) in any other case, so long as the standard rent is not fixed by the court, the rent at which the premises were first let.

3. Where the premises in respect of which rent is payable are let for use as a residence, not being premises to which paragraph 2 applies the standard rent of the premises shall be the basic rent increased by—

- (a) 8½ per cent. thereof, if the basic rent per annum is not more than Rs. 300;
- (b) 12½ per cent. thereof, if the basic rent per annum is more than Rs. 300 but not more than Rs. 600;
- (c) 18½ per cent. thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200; or
- (d) 25 per cent. thereof, if the basic rent per annum is more than Rs. 1,200.

4. Where the premises in respect of which rent is payable are let for any purpose other than use as a residence, not being premises to which paragraph 2 applies, the standard rent of the premises shall be the basic rent increased by—

- (a) 25 per cent. thereof, if the basic rent per annum is not more than Rs. 600;
- (b) 37½ per cent. thereof, if the basic rent per annum is more than Rs. 600, but not more than Rs. 1,200; or
- (c) 50 per cent. thereof, if the basic rent per annum is more than Rs. 1,200.

5. Where the premises in respect of which rent is payable, not being premises to which paragraph 2 applies, are used mainly as a residence and incidentally for business or profession, the standard rent of the premises shall be the mean of the rent as calculated under paragraphs 3 and 4.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.**Ministry of Law.****ORDINANCE No. IV of 1952.****THE SAURASHTRA (ABOLITION OF LOCAL SEA CUSTOMS DUTIES AND IMPOSITION OF) PORT DEVELOPMENT LEVY REPEALING ORDINANCE, 1952.**

An Ordinance to repeal the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Ordinance, 1949.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Repealing Ordinance, 1952.

(2) It shall be deemed to have come into force on the 1st day of April, 1952.

2. Repeal of Saurashtra Ordinance LXXXIII of 1949.—The Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Ordinance, 1949, is hereby repealed:

Provided that section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to such repeal as if the said Ordinance had been an enactment.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy.

Registered No. C207

The
Calcutta  Gazette

THURSDAY, MAY 15, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

ORDINANCE NO. V OF 1952.

THE DISPLACED PERSONS (CLAIMS) CONTINUANCE

ORDINANCE, 1952.

An Ordinance to continue the Displaced Persons (Claims) Act, 1950.

WHEREAS Parliament is not in session, and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Displaced Persons (Claims) Continuance Ordinance, 1952.

(2) It shall come into force at once.

2. **Continuance of Act XLIV of 1950.**—During the period of operation of this Ordinance, the Displaced Persons (Claims) Act, 1950, shall have effect as if in sub-section (3) of section 1 for the words “two years” there had been substituted the words “three years”.

RAJENDRA PRASAD, President.

K. V. K. SUNDARAM, Secy.

Registered No. C207

The
Calcutta Gazette



THURSDAY, JUNE 26, 1952.

PART V—Acts of the Parliament of India assented to by the President, and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on 10th June 1952, and are hereby published for general information :—

ACT No. XXXIX of 1952.

THE SAURASHTRA (ABOLITION OF LOCAL SEA CUSTOMS DUTIES AND IMPOSITION OF) PORT DEVELOPMENT LEVY REPEALING ACT, 1952.

An Act to repeal the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Ordinance, 1949.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Repealing Act, 1952.

2. **Repeal of Saurashtra Ordinance LXXXIII of 1949.**—The Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Ordinance, 1949, is hereby repealed :

Provided that section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to such repeal as if the said Ordinance had been an enactment.

3. **Repeal of Ordinance IV of 1952.**—The Saurashtra (Abolition of Local Sea Customs Duties and Imposition of) Port Development Levy Repealing Ordinance, 1952 (IV of 1952), is hereby repealed.

ACT No. XL OF 1952.

THE DISPLACED PERSONS (CLAIMS) AMENDMENT ACT, 1952.

An Act to amend the Displaced Persons (Claims) Act, 1950.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Displaced Persons (Claims) Amendment Act, 1952.

2. Amendment of section 1, Act XLIV of 1950.—For sub-section (3) of section 1 of the Displaced Persons (Claims) Act, 1950, the following sub-section shall be substituted, namely:—

“(3) It shall remain in force for a period of three years only.” .

3. Repeal.—The Displaced Persons (Claims) Continuance Ordinance, 1952 (V of 1952), is hereby repealed.

ACT No. XLI OF 1952.

THE CALCUTTA PORT (AMENDMENT) ACT, 1952.

An Act further to amend the Calcutta Port Act, 1890.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Calcutta Port (Amendment) Act, 1952.

2. Amendment of section 5, Bengal Act III of 1890.—For clauses (v) and (vi) of section 5 of the Calcutta Port Act, 1890, the following clauses shall be substituted, namely:—

“(v) the General Manager, Eastern Railway, *ex-officio*.

(vi) the Director of the Railway Board at Calcutta, *ex-officio*.”

K. Y. BHANDARKAR, Secy

Registered No. C207

The
Calcutta Gazette



THURSDAY, JANUARY 17, 1952

PART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 7th June, 1951:—

BILL No. 58 of 1951.

A Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1951.

2. Declaration of certain goods to be essential for the life of the community.—The goods specified in the Schedule are hereby declared to be essential for the life of the community.

3. Regulation of tax on sale or purchase of essential goods.—No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

THE SCHEDULE.

(See section 2.)

Goods declared essential for the life of the community.

1. Cereals and pulses in all forms, including bread and flour, including atta, maida, suji and bran (except when any such article is sold in sealed containers).

2. Green or dried vegetables and flower seeds, bulbs and plants and fresh and dried fruits, other than medical preparations (except when any such article is sold in sealed containers).

3. Fresh milk, whole or separate, and milk products.

4. Salt.

5. Coarse and medium handloom and mill-made cotton cloth and handloom woollen cloth.

6. Fertilizers and agricultural machinery and implements.

7. Raw cotton, including ginned and un-ginned cotton or kapas or cotton thread, cotton seed, raw jute and sugar-cane.

8. Coal, including coke and other derivatives, petroleum and petroleum products, including motor spirit and electrical energy, except energy intended for domestic use.

9. Iron and steel.

STATEMENT OF OBJECTS AND REASONS.

Article 286(3) of the Constitution provides that—

"No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods, as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent."

A list of goods essential for the life of the community for the purpose of the above mentioned provisions has accordingly been drawn up and the Bill provides that the imposition, after the enactment of the Bill, of a sales or purchase tax on these goods should be reserved for the consideration of the President. The Bill, if enacted, may help to achieve a certain measure of uniformity in the taxes, and also prevent essential goods being unduly taxed.

C. D. DESHMUKH.

NEW DELHI;

The 2nd June, 1951.

M. N. KAUL, Secy.

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 7th August 1951:—

BILL No. 62 of 1951.

A Bill to provide for the prevention of strikes in certain essential services.

Be it enacted by Parliament as follows:—

1. **Short title, extent and duration.**—(1) This Act may be called the Essential Services (Prevention of Strikes) Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall cease to have effect on the 31st day of December, 1952, save as respects things done or omitted to be done before that date.

2. Definitions.—In this Act,—

(a) “essential service” means—

(i) any railway service;

(ii) any public road transport service carried on by means of motor vehicles;

(iii) any service or employment in a port in connection with the loading, unloading, movement or storage of goods, the pilotage or berthing of vessels, or the maintenance of navigation channels;

(iv) any postal, telegraph or telephone service; or

(v) any service of the Central Government engaged in, or in connection with, the manufacture, repair, storage, inspection or distribution of ships, aircraft, vehicles, arms, ammunition or other stores or equipment of the armed forces; and

(b) “strike” means a total or partial cessation of work by a body of persons employed in any essential service acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment.

3. Power to prohibit strikes in essential services.—(1) The Central Government may, if satisfied that public interest so requires, by notification in the Official Gazette, prohibit strikes in any essential service specified in the notification within such area and for such period as may be so specified therein.

(2) Upon the issue of a notification under sub-section (1),—

(a) no person employed in any essential service to which it relates shall go or remain on strike; and

(b) any strike declared or commenced, whether before or after the issue of the notification, by persons employed in any such essential service, shall be illegal.

4. Penalty for illegal strikes.—(1) Any person who commences or continues a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any police officer may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under sub-section (1).

5. Penalty for instigation, etc.—Any person who instigates or incites others to take part in, makes any preparation for, or otherwise aids in furtherance of, a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.**6. Penalty for giving financial aid to illegal strikes.**—Any person who knowingly expends or applies any money in direct furtherance or support of a strike which is illegal under this Act shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees, or with both.**7. Effect of provisions inconsistent with other laws.**—The provisions of this Act and of any notifications issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947 (XIV of 1947), or any other law for the time being in force.

8. Repeal of Ordinance I of 1951.—(1) The Essential Services (Prevention of Strikes) Ordinance, 1951 (I of 1951) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

In spite of the best efforts on the part of Government to meet the legitimate demands of labour to the maximum extent possible, the All-India Railwaymen's Federation have announced that they will launch a general strike on railways. It has come to the notice of Government that workers employed in other essential services may also go on strike either in sympathy with railwaymen or for other reasons. The interruption of railway communications as the result of a strike will seriously imperil the economic life of the country, affecting, as it will, the movement of imported food from the ports of landing to the scarcity regions in the interior, as well as the flow of other capital and consumer goods. A strike in the other essential services will also have serious consequences on the life of the people and the security of the country.

In order to safeguard the welfare and interests of the public at large against the consequences that might follow from the action on the part of the workers in certain essential services going on strike, Government have issued an Ordinance empowering them to prohibit strikes in any of the essential services therein specified. The Bill seeks to replace the Ordinance.

The Bill is an emergency measure and it has been provided that it shall remain in force only up to 31st December, 1952.

N. GOPALASWAMI

NEW DELHI;

The 1st August, 1951.

M. N. KAUL, Secy.

Registered No. C207

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THURSDAY, FEBRUARY 7, 1952

PART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 6th June, 1951:—

*BILL NO. 56 OF 1951.

A Bill further to amend the Indian Income-tax Act, 1922.

BE it enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Indian Income-tax (Amendment) Act, 1951.

(2) It shall be deemed to have come into force on the 1st day of April, 1951.

2. Amendment of section 2, Act XI of 1922.—In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act),—

(a) for clause (2), the following clause shall be substituted namely:—

“(2) ‘assessee’ means a person by whom income-tax, whether with or without interest, is payable, and includes a person by whom a penalty or a sum of money for compounding an offence under section 53 or any other sum is payable under this Act;”;

(b) clause (6) shall be renumbered as clause (5A), and after clause (5A) as so renumbered, the following clause shall be inserted, namely:—

“(6) ‘Director of Inspection’ means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection, or an Assistant Director of Inspection;”;

(c) in clause (6A),—

(i) in sub-clause (b), after the word “debenture-stock” the words “or of deposit certificates in any form, whether with or without interest” shall be inserted;

*The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Parliament the introduction of the Bill.

(ii) in the proviso to sub-clause (c), the word "and" occurring at the end shall be omitted;

(iii) after sub-clause (d), the following sub-clause shall be inserted, namely:—

"(e) any payment by a company (not being a company in which the public are substantially interested within the meaning of section 23A) of any sum (whether as representing a part of the assets of the company or otherwise) by way of advances or loans to any of its shareholders, or any payment by the company on behalf of or for the individual benefit of any of its shareholders, to the extent to which the company possesses accumulated profits, whether capitalised or not:

Provided that the Income-tax Officer is of opinion that the sum so paid is in effect out of the accumulated profits of the company: and

Provided further that where any such sum has been held to be a dividend by the Income-tax Officer and any dividend actually paid by the company in any subsequent year is set off against the whole or any part of such sum, the whole or part of such amount, as the case may be, to the extent to which it is so set off, shall not be included within the expression 'dividend' for any of the purposes of this Act;

(d) for clause (6C), the following clause shall be substituted, namely:—

"(6C) 'income' includes—

(i) anything included in 'dividend' under clause (6A), or anything deemed to have been paid, credited or distributed as dividend within the meaning of this Act;

(ii) anything which, under *Explanation 2* to sub-section (1) of section 7 is a profit received in lieu of salary for the purposes of that sub-section;

(iii) any sum deemed to be profits under the second proviso to clause (vii) of sub-section (2) of section 10;

(iv) any sum in the nature of a pugree, salami, nazar or other like premium received by a person after the end of the previous year for the assessment for the year ending on the 31st day of March, 1951, on account of, or in connection with, the granting of any lease of immoveable property by him for a term of fifty years or less:

Provided that for the purposes of assessment of any such sum such portion thereof as is equal to the amount of the sum received divided by the number of years of the lease, subject to a minimum of one-twentieth of the amount of such sum, shall be taken to be the income of the previous year in which such sum is received and of the nineteen subsequent previous years or less, as the case may be, and where before the expiry of twenty years or the term fixed, whichever is the less, the lease is terminated or the lessor dies or the

lessor, being a firm or an association of persons or a company, is dissolved or wound up, as the case may be, the proportionate amount for the unexpired period of the lease shall be deemed to be the income of the year in which the lease is terminated or the lessor dies or is dissolved or wound up, as the case may be;

- (v) any compensation received by a person by way of damages or otherwise on the termination of a managing agency, where the Income-tax Officer is of opinion that the party concerned in the transaction has a controlling interest, whether direct or indirect, in the managed enterprise or in the new managing agency, or in both;
- (vi) any capital gain chargeable according to the provisions of section 12B;
- (vii) the surplus, if any, in any business of insurance carried on by a mutual insurance association computed in accordance with rule 9 in the Schedule;"

(e) after clause (6D), the following clause shall be inserted, namely:—

"(6E) 'Inspector of Income-tax' means a person appointed to be an Inspector of Income-tax under section 5;"

(f) in clause (11),—

- (i) in the proviso to sub-clause (a), after the words "profits and gains" the words, letter and brackets "or has exercised the option under clause (c)" shall be inserted;
- (ii) in sub-clause (c), after the words "option of the assessee" the words "which shall be exercised within twelve months of the setting up of the business" shall be inserted;

(g) for sub-clause (a) of clause (12), the following sub-clause shall be substituted, namely:—

"(a) the secretary, treasurer, manager, managing agent and, where the managing agent is a firm or company, any of the partners or the principal officer thereof, as the case may be, or the agent of the authority, company, body or association or, in the case of a company being wound up, the liquidator thereof, or";

(h) clause (14) shall be renumbered as clause (13A), and after clause (13A) as so renumbered, the following clause shall be inserted, namely:—

"(14) 'shareholder' means a person holding a share in any company and registered as a member thereof in its books:

Provided that the Income-tax Officer may, in lieu of treating such person as the shareholder treat as such any other person who is either beneficially entitled for the time being to the share or who would be liable to be assessed on the dividend, if any, distributed or deemed to be distributed in respect of the share;"

3. Amendment of section 4, Act XI of 1922.—In section 4 of the principal Act,—

(a) in sub-section (1),—

(i) for the second proviso, the following proviso shall be substituted, namely :—

“Provided further, that in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub-clause (iii) of clause (b) as accrued or arose to him without India, shall not be included in his total income.”;

(ii) in *Explanation 2*, for the words “wherever paid if it is earned in the taxable territories” the following shall be substituted, namely :—

“wherever paid if—

(i) it is earned in the taxable territories; or

(ii) it is payable to a citizen of India by the Central Government or the Government of any State other than the State of Jammu and Kashmir; or

(iii) it is paid or payable out of any superannuation fund, contributions to which have been allowed at any time as a deduction out of the income, profits and gains accruing or arising in the taxable territories.”;

(iii) after *Explanation 4*, the following *Explanation* shall be inserted, namely :—

“*Explanation 5.*—For the purposes of this Act,—

(i) income, profits and gains resulting from the manufacture and sale of goods, actually accrue or arise in full in the taxable territories if the goods are sold in the taxable territories;

(ii) income from interest (including interest on securities) actually accrues or arises in full in the taxable territories if the money borrowed is used in the taxable territories in cash or in kind;

(iii) income from royalties for the use of any copyright, patent, design, secret process or formula, trade mark or other like property actually accrues or arises in full in the taxable territories if such property is used, or exploited in the taxable territories;

(iv) profits arising to a distributor or producer by way of hire, royalty or premium on cinematograph films actually accrue or arise in full in the taxable territories, if such profits are in respect of the exhibition thereof or relate to any rights of exhibition or distribution in respect thereof.”;

(b) in sub-section (3),—

(i) for clauses (i) and (ia), the following clause shall be substituted, namely :—

“(i) Subject to the provisions of clause (c) of sub-section (1) of section 16, any income derived from property held under

a trust or other legal obligation solely for religious or charitable purposes, where such purposes relate to anything done within the taxable territories, and, in the case of a property so held in part only for such purposes, the income applied or finally set apart for application thereto:

Provided that where such income is derived from business carried on behalf of a religious or charitable institution, such income shall be included in the total income unless the income is applied solely to the purposes of the institution, and

- (a) the business is carried on in the course of the carrying out of a primary purpose of the institution, or
- (b) the work in connection with the business is mainly carried on by the beneficiaries of the institution.”;

(ii) for clause (vi), the following clause shall be substituted, namely:—

“(vi) Any special allowance, benefit or perquisite specifically granted to meet expenses necessary for the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred.”;

(iii) in clause (xiii), in the definition of “charitable purpose”, the word, letters and brackets “clause (ia)” shall be omitted, and for the words “income of a private religious trust” the words “income from property held under a trust or other legal obligation for private religious purposes” shall be substituted;

(iv) after clause (xiii), the following clauses shall be inserted, namely:—

“(xiv) Any income received by an employee of a foreign enterprise not engaged in any trade or business in the taxable territories as remuneration for services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year:

Provided that no such remuneration shall be allowed as a deduction in computing any income, profits and gains chargeable under this Act.

(xv) Any income received as remuneration from the Government of a foreign State by an employee of that State, who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of the foreign State, and any other income of such employee or of the members of his family accompanying him to India, which accrues or arises without the taxable territories, and is not deemed to accrue or arise in the taxable territories, upon which such employee or the members of his family are required to pay any income or social security tax to the Government of the foreign State;

- (xvi) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development, except where the holder of such bond is a person resident in the taxable territories;
- (xvii) Interest on the 3½ per cent. Ten-year Treasury Savings Deposit Certificates issued by or under the authority of the Central Government for an amount not exceeding the maximum amount which an assessee is entitled to deposit in such certificates."

4. Amendment of section 4A, Act XI of 1922.—In section 4A of the principal Act,—

(a) for clause (b), the following clause shall be substituted, namely:—

“(b) a Hindu undivided family, firm or other association of persons is resident in the taxable territories in any year if during that year the control and management of its affairs is not situated wholly without the taxable territories;”;

(b) at the end of the section, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—An individual, a Hindu undivided family, firm or other association of persons shall be chargeable as resident in the taxable territories in respect of all his or its sources of income, notwithstanding that he or it was resident in the taxable territories in the previous year in respect of any one only of his or its sources of income, profits and gains.”

5. Omission of section 4B, Act XI of 1922.—Section 4B of the principal Act shall be omitted.

6. Amendment of section 5, Act XI of 1922.—In section 5 of the principal Act,—

(a) in sub-section (1),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) Directors of Inspection;”;

(ii) after clause (d), the following clause shall be inserted, namely:—

“(e) Inspectors of Income-tax.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Central Government may appoint one or more Directors of Inspection as it thinks fit and Directors of Inspection shall, subject to the control of the Central Board of Revenue, perform such functions of any income-tax authority as may be assigned to them by the Central Government.”;

(c) for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income-tax Officers of Class II service and Inspectors of Income-tax as may, from time to time, be sanctioned by the Central Government.”;

“(3A) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.”;

(d) in the second sentence of sub-section (5), the words “with the previous approval of the Central Board of Revenue,” shall be omitted, and for the words “Appellate Assistant Commissioner”, wherever they occur in this sentence, the words “Inspecting Assistant Commissioner” shall be substituted;

(e) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax Officer or other income-tax authority under whom they are appointed to work, and shall be subordinate to such officer or other authority.”;

(f) in sub-section (7), for the words “assigned to them by” the words “in respect of cases assigned to” shall be substituted;

(g) after sub-section (7A), the following sub-sections shall be inserted, namely:—

“(7B) The Director of Inspection, the Commissioner or the Inspecting Assistant Commissioner, as the case may be, may issue such instructions as he thinks fit for the guidance of any Income-tax Officer subordinate to him in the matter of any assessment, and for the purposes of making any inquiry under this Act (which he is hereby empowered to do), the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall have all the powers that an Income-tax Officer has under this Act in relation to the making of inquiries.

(7C) Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which proceeding was left by his predecessor.”

7. Amendment of section 5A, Act XI of 1922.—In section 5A of the principal Act,—

- (a) in sub-section (2), the proviso shall be omitted;
- (b) in sub-section (3), for the words beginning with “A judicial member shall be” and ending with “the Auditors Certificates Rules 1932:”, the following shall be substituted, namely:—
“A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy, whether as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949) or as a registered accountant under any law formerly in force:”;
- (c) in sub-section (4), the word “judicial” shall be omitted.

8. Amendment of section 7, Act XI of 1922.—In section 7 of the principal Act,—

- (i) in sub-section (1), for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

Explanation 1.—For the purposes of this sub-section, “perquisites” includes—

- (a) the full value of any benefits granted to the assessee by his employer, such as the provision of living or other accommodation, whether free of rent or at concessional rent, the supply of food or domestic servants free of cost or at concessional rate or the provision for any other service or supply or any other amenity of whatsoever nature;
- (b) any sum paid by the employer in respect of any charge or other obligation which but for such payment would have been paid by the assessee;
- (c) any sum paid by the employer, whether paid directly or through a fund to which the provisions of Chapters IXA and IXB do not apply, to effect an assurance on the life of the assessee or in respect of a contract for an annuity on the life of the assessee:

Provided that where the perquisites are for the benefit of a number of employees collectively, the value of the benefit to the assessee shall be deemed to be such portion of the total cost to the employer in respect thereof as is proportionate to the benefit enjoyed by the assessee.’;

- (ii) in the proviso to *Explanation 2*, after the words “liable to income-tax any payment” the words “of death-cum-retirement gratuity received under the revised Pension Rules of the Central Government, or any payment” shall be inserted, and the words “or in lieu of or in commutation of an annuity” and the words “or on his leaving the employment in connection with which the fund is established” shall be omitted;

- (iii) sub-section (2) shall be omitted.

9. Amendment of section 8, Act XI of 1922.—In section 8 of the principal Act,—

- (i) for the word "receivable", wherever it occurs, the words "received or receivable" shall be substituted; and for the words "a local authority or a company" the words and figures "a local authority, a company or a co-operative society registered for the time being under the Co-operative Societies Act, 1912 (II of 1912), or under any law of a State governing the registration of co-operative societies:" shall be substituted;
- (ii) in the first proviso, for the words and figures "not being interest on a loan issued for public subscription before the 1st day of April, 1938," the words and figures "not being interest on such loan issued for public subscription before the 1st day of April, 1938, as the Central Government may, by general or special order, specify in this behalf," shall be substituted.

10. Amendment of section 9, Act XI of 1922.—In section 9 of the principal Act,—

- (i) in sub-section (1), the words "bona fide" shall be omitted and in the proviso to clause (iv), for the words and figures "not being interest on a loan issued for public subscription before the 1st day of April, 1938," the words and figures "not being interest on such loan issued for public subscription before the 1st day of April, 1938, as the Central Government may, by general or special order, specify in this behalf," shall be substituted, and after the proviso, as so amended, the following further proviso shall be inserted, namely:—

"Provided further that no allowance shall be made in respect of any annual charge which is created in consideration of the right of any present or past member of a Hindu undivided family to any maintenance allowance where no tax is payable by such member in respect of the maintenance allowance by virtue of the provisions of sub-section (1) of section 14.";

- (ii) in sub-section (2), for the words beginning with the words "For the purpose of this section," and ending with the words "ten per cent. of such total income", the following shall be substituted, namely:—

"For the purposes of this section, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year, and, where the property is let in consideration of a premium in addition to a monthly or annual rent and such premium is liable to be included in the income of the lessor by virtue of clause (6C)(iv) of section 2, the annual value shall be so computed as to include also such premium:

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value shall be determined in the same manner as if the property had been let to a tenant, so however that, where the sum so determined exceeds ten per cent. of the total income of the owner, the annual value of the property shall be deemed to be ten per cent. of such total income:".

11. Amendment of section 10, Act XI of 1922.—In section 10 of the principal Act,—

(I) in sub-section (2),—

(i) to clause (i), the following further proviso shall be added, namely:—

“Provided further that where in addition to such rent any premium is paid for the lease of the premises, and such premium is liable to be included in the income of the lessor by virtue of clause (6C)(iv) of section 2, or sub-section (2) of section 9, as the case may be, the rent paid shall be computed so as to include also such portion of the premium as is equal to the premium paid divided by the number of years of the lease subject to a minimum of one-twentieth of the premium for the period of the lease or for a period of 20 years as the case may be.”;

(ii) in clause (iii),—

(a) in the proviso, for the words and figures “not being interest on a loan issued for public subscription before the 1st day of April, 1938,” the words and figures “not being interest on such loan issued for public subscription before the 1st day of April, 1938, as the Central Government may, by general or special order, specify in this behalf,” shall be substituted;

(b) after the proviso as so amended, the following further proviso shall be inserted, namely:—

“Provided further that, where after the commencement of the business, profession or vocation, the assessee has made investments or acquired assets which are not for the purposes of the business, profession or vocation or the income from which is not wholly chargeable under this Act, so much of the borrowed capital as is equal to the amount utilised in such investments or assets shall not be deemed to be capital borrowed for the purposes of the business, profession or vocation.”;

(iii) in clause (c) of the proviso to clause (vi), for the words “where full” the words “where, in the assessment of the assessee or if the assessee is a registered firm, in the assessments of its partners, full” shall be substituted;

(iv) in clause (vii), for the words “machinery or plant”, wherever they occur, the words “machinery, plant or furniture” shall be substituted, and to the clause as so amended, the following *Explanation* shall be added at the end, namely:—

Explanation.—In this clause, the expression “sold” means transferred for a price or by way of exchange, or compulsorily acquired under any law for the time being in force, whether the transfer or acquisition was made before or after the commencement of the Indian Income-tax (Amendment) Act, 1951.’;

(v) at the end of the proviso to clause (x), the following words shall be inserted, namely:—

“any part of the amount which, in the opinion of the Income-tax officer, is excessive or unjustified being disallowed.”;

- (vi) in clause (xv), for the words and brackets "not being in the nature of capital expenditure or personal expenses of the assessee" the words and brackets "not being an allowance of the nature described in any of the clauses (i) to (xvi) inclusive, and not being in the nature of capital expenditure or personal expenses of the assessee" shall be substituted;
- (2) in sub-section (4),—
- (i) for the word, letters and brackets "clause (xii)" the word letters and brackets "clause (xv)" shall be substituted;
- (ii) in clause (b), for the words "any partner of the firm; or" the following shall be substituted, namely:—
"any partner of the firm or by an association of persons to any member of the association, or by a Hindu undivided family to any member of the family:
Provided that interest paid to any member of the Hindu undivided family on his self-acquired and separate funds lent to the family shall not be disallowed under this clause; or";
- (3) in sub-section (5),—
- (i) after clause (b), the following clause shall be inserted, namely:—
'(c) in the case of assets acquired by the assessee by way of gift or inheritance, the "written-down-value" as in the case of the previous owner or the market value thereof whichever is the less.';
- (ii) at the end, the following *Explanation* shall be inserted, namely:—
Explanation.—For the purposes of this sub-section, the expression "actual cost" means the actual cost of the assets as reduced by the amounts, if any, received from any outside source for or in connection with the purchase of such assets, and any allowance in respect of any depreciation carried forward under clause (b) of the proviso to clause (vi) of sub-section (2) shall be deemed to be depreciation "actually allowed";
- (4) in sub-section (6), after the word "association" the following shall be inserted, namely:—
"which is registered under the Indian Companies Act, 1913 (VII of 1913), or is a body corporate under any other law for the time being in force in the taxable territories, shall be deemed to carry on business within the meaning of this section and shall be chargeable to tax accordingly, and any other trade, profession or similar association";
- (5) after sub-section (6), the following sub-section shall be inserted, namely:—
"(6A)(a) Where the assessee has assets, transactions or undertakings which are either not connected with the business, profession or vocation under assessment or the income whereof is not wholly chargeable under this Act, the allowances admissible under this section shall be reduced in whole or in part to such extent as the Income-tax Officer considers reasonable.

(b) In computing the income, profits and gains chargeable under this section, no allowance shall be made under any provision of this Act in respect of any expenditure or part thereof, if in relation to such expenditure or part, as the case may be, an allowance has been made under some other provision of this Act."

12. Amendment of section 12, Act XI of 1922.—In section 12 of the principal Act,—

(i) in clause (b) of the proviso to sub-section (2), for the words and figures "not being interest on a loan issued for public subscription before the 1st day of April, 1938," the words and figures "not being interest on such loan issued for public subscription before the 1st day of April, 1938, as the Central Government may, by general or special order, specify in this behalf" shall be substituted;

(ii) after the proviso as so amended, the following further proviso shall be inserted, namely:—

"Provided further that if any premium is paid in addition to the monthly or annual rent in respect of a lease and such premium is liable to be included in the income of the lessor by virtue of clause (6C)(iv) of section 2 or sub-section (2) of section 10, as the case may be, an allowance shall be made in the like manner and to the same extent as would be made under clause (i) of sub-section (2) of section 10.";

(iii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Where the assessee has assets, transactions or undertaking which are either not connected with his income under the head 'other sources' or the income whereof is not wholly chargeable under this Act, the allowances admissible under this section shall be reduced in whole or in part to such extent as the Income-tax Officer considers reasonable."

13. Insertion of new section 12AA in Act XI of 1922.—After section 12A of the principal Act, the following section shall be inserted, namely:—

"12AA. Royalties or copyright fees for literary or artistic works. Where the time taken by the author of a literary or artistic work in the making thereof is—

(a) more than twelve but less than twenty-four months, or

(b) more than twenty-four months,

the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of the work, or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he claims, be allocated for purposes of assessment as hereunder—

(i) in the case referred to in clause (a), one-half of the amount of such lump sum, royalties or fees, as the income of the previous year in which the whole amount is received or receivable, and the other half, as the income of the next succeeding previous year; and

- (ii) in the case referred to in clause (b), one-third of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and one-third of the said amount as the income of each of the two next succeeding previous years.

Explanation.—For the purposes of this section, the expression 'author' includes a joint author and the expression 'lump sum' in regard to royalties or copyright fees includes an advance payment on account of such royalties or copyright fees which is not returnable."

14. Amendment of section 13, Act XI of 1922.—For the provisos to section 13 of the principal Act, the following proviso shall be substituted, namely:—

"Provided that—

- (a) if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, the Income-tax Officer may, after recording the reasons for his opinion, compute the income, profits and gains on such basis and in such manner as he may determine;
- (b) where, in computing the income of the third year immediately preceding the previous year, an allowance has been made for any amount due but not actually paid by the assessee in that year and such amount remains unpaid at the end of the previous year, such amount shall be deemed to be income, profits and gains and to accrue or arise in the taxable territories during the previous year;
- (c) where any amount which has been deemed to be income, profits and gains under clause (b) is actually paid by the assessee subsequently, an allowance of the amount so paid shall be made from the income of the year in which it is paid;
- (d) where, at any time prior to the previous year, an allowance has been made in respect of any trading debt or loss incurred by the assessee, any amount received by him during the previous year in respect of such debt or loss by way of compensation or otherwise, shall be deemed to be the income, profits and gains and to accrue or arise in the taxable territories during the previous year."

15. Amendment of section 14, Act XI of 1922.—In section 14 of the principal Act,—

- (a) for sub-section (1), the following sub-section shall be substituted, namely:—
 - "(1) The tax shall not be payable by an assessee in respect of any sum which he receives—
 - (i) as a member of a Hindu undivided family out of the total income of the family in respect of which the family itself has been or can be assessed as a unit; or
 - (ii) as a member of a Hindu undivided family from the holder of an imitable estate belonging to the family, out of the total income of the holder of the estate where such income has been or can be assessed as a unit."

(b) in clause (c) of sub-section (2), for the words and letter "Part B State" the words "the State of Jammu and Kashmir" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1950.

16. Amendment of section 15, Act XI of 1922.—In section 15 of the principal Act,—

(a) in sub-section (1), after the words "on the life of a wife or husband of the assessee", where they occur for the second time, the words "which in conjunction with any other benefit secures a capital sum on death" shall be inserted; and to the said sub-section, the following *Explanation* shall be added, namely:—

"*Explanation.*—For the purposes of this sub-section, any sum paid by the employer of the assessee to effect an insurance on the life of the assessee or in respect of a contract for an annuity on the life of the assessee, which is included in his total income as a perquisite under *Explanation 1* to sub-section (1) of section 7, shall be deemed to be a sum paid by the assessee.";

(b) in sub-section (2A), the words "other than a contract for a deferred annuity" shall be omitted.

17. Amendment of section 15C, Act XI of 1922.—In section 15C of the principal Act,—

(a) in sub-section (2),—

(i) in clause (ii), for the word "three" the word "six" shall be substituted;

(ii) in clause (iii), for the word "fifty" the word "twenty-five" shall be substituted;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) The provisions of this section shall apply to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding."

18. Amendment of section 16, Act XI of 1922.—In section 16 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words, figures and letters "section 15B and section 15C" the words, figures, letters and brackets "section 15B, section 15C and sub-section (3) or sub-section (4) of section 25" shall be inserted;

(ii) in clause (b) after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that where any such partner pays interest in respect of the capital borrowed by him and invested in the business, profession or vocation of the firm or where according to the terms of the partnership he is required to work in the firm but engages a person to work therein on his behalf, the interest or salary paid by him shall be allowed as a deduction from his share of the firm so computed;"

(iii) in clause (c), after the words "income of the transferor" the following shall be inserted, namely:—

"and all transactions in respect of the property or assets which have been the subject of such settlement, disposition or transfer, and all such property or assets shall, for the purposes of this clause, be deemed to be the transactions, property or assets of the settlor, disporor or transferor, as the case may be:";

(b) in sub-section (2), after the words "an assessee" the words "who is a shareholder in a company" shall be inserted;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

(a) so much of the income of a spouse or minor child of such individual or of the minor child of a brother of such individual as arises directly or indirectly—

(i) from the membership of the spouse in a firm of which such individual is a partner;

(ii) from the admission of any such minor to the benefits of partnership in a firm of which such individual or the spouse of such individual is a partner;

(iii) from any settlement or disposition made by such individual in favour of the spouse or from assets transferred directly or indirectly by such individual to the spouse otherwise than for adequate consideration or in connection with an agreement to live apart;

(iv) from any settlement or disposition made by such individual in favour of such minor or from assets transferred directly or indirectly by such individual to any such minor, not being a married girl, otherwise, than for adequate consideration; and

(b) so much of the income of any person or association of persons as arises from any settlement or disposition made by such individual in favour of the person or association or from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of the spouse or minor child of such individual or for the benefit of a minor child of such individual's brother or for the benefit of all or any two or more of them.

Explanation.—For the purposes of this sub-section, the word 'child' includes adopted child, foster-child, step-child, illegitimate child and grandchild."

18. Amendment of section 18, Act XI of 1922.—In section 18 of the principal Act,—

(a) in sub-section (2B), for the words "at the rate or rates applicable to the estimated income of the assessee under this head", the following shall be substituted, namely:—

"on the estimated income of the assessee under this head in accordance with the provisions of clause (b) of sub-section (1) of section 17:

Provided that where—

- (i) the person not so resident has obtained a certificate in writing from the Income-tax Officer (which certificate the Income-tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or
 - (ii) the Income-tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order, the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be.”;
- (b) sub-section (3A) shall be renumbered as sub-section (3B), and before that section as so renumbered, the following sub-section shall be inserted, namely :—
- ‘(3A) The person responsible for paying any income chargeable under the head “Interest on securities” to a person whom he has no reason to believe to be resident in the taxable territories, shall, at the time of payment, deduct super-tax on the amount of such interest—
- (i) if such person is a company, at the rate applicable to a company,
 - (ii) if such person is not a company, in accordance with the provisions of clause (b) of sub-section (1) of section 17:
- Provided that where such person is not a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B).’;
- (c) in sub-section (3B) as so renumbered, for the words commencing with “income-tax thereon as an agent, deduct income-tax at the maximum rate” and ending with the words “or deduct the tax at such less rate, as the case may be:” the following shall be substituted, namely :—
- “income-tax and super-tax thereon as an agent, deduct income-tax at the maximum rate and super-tax at the rate applicable to a company or in accordance with the provisions of sub-clause (b) of sub-section (1) of section 17, as the case may be:
- Provided that where the person not so resident is not a company, the proviso to sub-section (2B) shall apply to the deduction of income-tax and super-tax under this sub-section as it applies to the deduction of income-tax and super-tax under sub-section (2B).’;
- (d) the existing sub-sections (3B) and (3C) shall be omitted;
- (e) for sub-sections (3D) and (3E), the following sub-sections shall be substituted, namely :—
- “(3D) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to

determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub-section (3B).

(3E) The principal officer of an Indian company or a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from dividends shall, at the time of paying any dividend to a shareholder whom the principal officer has no reason to believe to be resident in the taxable territories, deduct super-tax on the amount of such dividend as increased in accordance with the provisions of sub-section (2) of section 16—

- (i) if the shareholder is a company, at the rate applicable to a company,
- (ii) if the shareholder is a person other than a company, in accordance with the provisions of clause (b) of sub-section (1) of section 17:

Provided that in the case of a shareholder other than a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B).";

(f) in sub-section (5), after the words "Any deduction made" the words "and paid to the account of the Central Government" shall be inserted; after the words "given to him therefor" the words "on the production of the certificate furnished under sub-section (9) of section 20, as the case may be," shall be inserted, and after the second proviso, the following further proviso shall be inserted, namely :—

"Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted or in respect of any sum by which the dividend has been increased under sub-section (2) of section 16, may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income.";

(g) in sub-section (7), for the words, brackets, figures and letters "sub-sections (3D) and (3E)" the word, brackets, figure and letter "sub-section (3E)" shall be substituted;

(h) in sub-section (9), the brackets, figures and letters "(3C), (3D)" shall be omitted;

(i) after sub-section (9), the following sub-section shall be inserted, namely :—

"(10) In this section, the expression 'person responsible for paying' shall mean and shall be deemed always to have meant—

(i) in the case of payments of income chargeable under the head 'Salaries' other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself or the principal officer thereof;

(ii) in the case of payments of income chargeable under the head 'Interest on securities', other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, company or the co-operative society concerned or the principal officer thereof."

20. Amendment of section 18A, Act XI of 1922.—In section 18A of the principal Act,—

- (a) in sub-section (1)(a), for the words "if that total income exceeded six thousand rupees." the words "if that total income exceeded the maximum amount not chargeable to tax in his case by two thousand five hundred rupees." shall be substituted;
- (b) in sub-section (3), for the words "is likely to exceed six thousand rupees," the words "is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees," shall be substituted;
- (c) after sub-section (3), the following sub-section shall be inserted, namely :—
 "(3A) If at any time during a financial year, the Income-tax Officer has reason to believe that—
 - (a) the tax payable by any person under this section in that year on his income in respect of the period which would be the previous year or part thereof for the purposes of assessment for the year next following is likely to be greater than—
 - (i) the tax that he has been, or would have been, required to pay under sub-section (1) on the basis of his last completed assessment, or
 - (ii) the estimate of the tax payable by him under sub-section (3), or
 - (b) any person who should have sent an estimate of the tax payable by him under sub-section (3), has not sent any such estimate, the Income-tax Officer may require such person to furnish a statement of his income for the period which would be the whole of the previous year or part thereof for the purposes of the assessment for the year next following, and may also require him to produce such account books or other information as he may require in respect of that period to enable him to determine the tax payable by such person under this section :

Provided that if any person does not furnish a statement of his income or does not produce the account books or other information required under this sub-section, the Income-tax Officer shall determine the tax payable by such person to the best of his judgment and may further direct that such person shall pay, by way of penalty, a sum not exceeding one-fifth of the tax so determined."

21. Insertion of new section 20B in Act XI of 1922.—After section 20A of the principal Act, the following section shall be inserted, namely :—

- "20B. Supply of information regarding interest on securities and dividends collected on behalf of other persons.—(1) Any person who claims that he is himself not liable to be assessed in respect of any interest on securities or dividends received or collected by him during any financial year shall, on or before the 15th day of June next after the close of the financial year to which

- the receipt or collection relates, furnish to the prescribed Income-tax Officer a return in the prescribed form and verified in the prescribed manner showing the names and addresses of all persons on whose behalf interest on securities or dividend was so collected or received, and forward therewith the relevant certificate under sub-section (9) of section 18 or section 20, as the case may be.
- (2) No person referred to under sub-section (1) shall be entitled to claim that he is not himself liable to be assessed on the interest on securities or dividends unless he has furnished the returns and certificates required in respect thereof."

22. Amendment of section 21, Act XI of 1922.—After clause (b) of section 21 of the principal Act, the following clause shall be inserted, namely:—

- "(bb) the value of any benefit or perquisite granted to any person and the amount of any special allowance specifically granted to meet expenses necessary in the performance of the duties of an office or employment of profit;".

23. Amendment of section 22, Act XI of 1922.—In section 22 of the principal Act,—

- (a) in sub-section (1), for the words "exceeded the maximum amount which is not chargeable to income-tax" the words "did not fall short of the maximum amount not chargeable to income-tax by more than five hundred rupees" shall be substituted;
- (b) in sub-section (2), for the words "whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax," the words "whose total income in the Income-tax Officer's opinion, does not fall short of the maximum amount not chargeable to income-tax by more than five hundred rupees," shall be substituted;
- (c) after sub-section (2), the following sub-sections shall be inserted, namely:—
- "(2A) If any person, who has not been served with a notice under sub-section (2), has sustained a loss of profits or gains in any year under the head 'Profits and gains of business, profession or vocation', and such loss or any part thereof would ordinarily have been carried forward under sub-section (2) of section 24, he shall, if he is to be entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub-section (1), all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub-section (1) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (1).
- (2B) The prescribed form of returns referred to in sub-sections (1) and (2) shall, in the case of an assessee engaged in any business, profession or vocation, whose total income exceeds the maximum amount not liable to super-tax, be accompanied by statements of accounts including a Balance Sheet, Profit and Loss Accounts and Trading Accounts duly audited by a chartered accountant.";

(d) in sub-section (4), for the words "such accounts or documents as the Income-tax officer may require", the following words shall be substituted, namely:—

"such accounts or documents, including accounts relating to any year subsequent to the previous year, as the Income-tax Officer may require, or to furnish in writing and verified in the prescribed manner, information in such form and on such points or matters as the Income-tax Officer may require."

24. Amendment of section 23, Act XI of 1922.—In section 23 of the principal Act,—

(a) in sub-section (2), for the words "without requiring" the words "without further information or without requiring" shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Where any fact, account or document, is relied upon by the assessee in support of his return, the onus of proving the correctness of such fact, account or document and of proving the quantum of his total income or total world income, shall be on the assessee."

25. Amendment of section 23A, Act XI of 1922.—In section 23A of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends, if any, by any company up to the end of the twelfth month after the end of that previous year, are less than sixty per cent. of the assessable income of the company of that previous year, as reduced by—

(a) the amount of income-tax and super-tax payable by the company in respect thereof,

(b) the amount of any tax levied by the Government of a State or by a local authority, whether such tax is wholly or partly an admissible deduction under section 9 or section 10 or not, and

(c) in the case of a banking company, the amount transferred to a reserve fund under section 17 of the Banking Companies Act, 1949,

he may, unless he is satisfied that having regard to losses incurred by the company in earlier years or to the smallness of the profit made, the payment of any dividend or a larger dividend than that declared would be unreasonable, make with the previous approval of the Inspecting Assistant Commissioner an order in writing that the whole of the undistributed portion of the assessable income of the company of that previous year as computed for income-tax purposes and reduced by the amounts aforesaid shall be deemed to have been distributed as dividends amongst the shareholders as at the date of any general meeting which has been held within the twelve

months aforesaid, or as at the end of the aforesaid period of twelve months whichever is earlier, and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purpose of assessing his total income:

Provided that in the case of a company whose income is derived mainly for investments or from dealings in investments, and in the case of any other company, if its reserves representing accumulations of past profits which have not been the subject of an order under this sub-section exceed the paid up capital of the company, together with any loan capital which is the property of the shareholders, or the actual cost of the fixed assets of the company, whichever of these is greater, this section shall apply as if instead of the words 'sixty per cent.' and 'fifty-five per cent.' the words 'one hundred per cent.' and 'ninety per cent.' respectively had been substituted:

Provided further that where the company has distributed not less than fifty-five per cent. of its assessable income, as reduced by the amounts aforesaid, the Inspecting Assistant Commissioner of Income-tax shall not give his approval to any order proposed to be passed by the Income-tax Officer under this section, unless after service of a notice from the Inspecting Assistant Commissioner, the company fails to make within two months of the service of such notice a further distribution of its profits and gains so as to bring up the total distribution to not less than sixty per cent. of the assessable income of the company of the previous year concerned, as reduced by the amounts as aforesaid:

Provided further that this sub-section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company if the whole of the share capital of such subsidiary company has been held by the parent company or by the nominees thereof at the end of that previous year.

Explanation.--For the purposes of this sub-section, a company shall be deemed to be a company in which the public are substantially interested only if at any time during that previous year its shares have been offered for sale in a recognised stock exchange in the taxable territories and it is neither a private company within the meaning of the Indian Companies Act, 1913 (VII of 1913), nor a company in which shares carrying more than fifty per cent. of the total voting power have, at any time during that previous year, been held or controlled by less than six persons";

(b) in sub-sections (3) and (4), for the word "member", wherever it occurs, the word "shareholder" shall be substituted;

(c) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(6) Any notice required under the provisions of this section may, where the company is in liquidation, be served on the liquidator, and the liquidator shall be responsible for doing all matters or things required to be done by or on behalf of the company and for the due payment of any tax payable by or recoverable from the company under the provisions of this section.

(7) In the case of a company which is not a company in which the public are substantially interested within the meaning of sub-section (1), the accumulated profits of the company of the period from the end of the last previous year for which it has made a return of its total income, to the date on which an order or resolution for winding it up is made shall, for the purposes of assessment of its shareholders, be deemed to have been distributed as dividend amongst the shareholders on the date of that order or resolution, and the provisions of sub-sections (3), (4) (5) and (6) shall apply in the like manner and to the same extent as they apply in the case of an order under sub-section (1)."

28. Amendment of section 24, Act XI of 1922.—In section 24 of the principal Act,—

(a) in sub-section (1), for the first proviso, the following provisos shall be substituted, namely:—

"Provided that in computing the income, profits and gains chargeable under any head or the loss of profits and gains falling under any head, so much of any loss as would but for the loss have accrued or arisen within the State of Jammu and Kashmir, shall not be taken into account except to the extent of the amount of income, profits and gains, if any, which would be exempt under the provisions of clause (c) of sub-section (2) of section 14:

Provided further that in computing the profits and gains chargeable under the head "Profits and gains of business, profession or vocation", any loss sustained in a business consisting of speculative transactions shall not be taken into account except to the extent of the amount of profits and gains, if any, in any other business consisting of speculative transactions.";

(b) in sub-section (2),—

(i) for the words "under the head 'Profits and gains of business, profession or vocation,'" the words "in any business, profession or vocation" shall be substituted;

(ii) in clause (a) of the proviso, for the words "India, but outside the taxable territories" the words "the State of Jammu and Kashmir" shall be substituted;

(iii) after clause (e) of the proviso, the following clauses shall be inserted, namely:—

"(f) where the assessee is a company which is not resident in the taxable territories and the loss carried forward is a loss of profits and gains which arose without the taxable territories in any year in which the company was assessed as a resident company under sub-clause (b) of clause (c) of section 4A, such loss shall not be allowed to be set off against the profits and gains from the same business arising in the taxable territories except to the extent to which the profits and gains arising without the taxable territories have, as reduced by the amount of such losses, if any, allowed previously, been assessed in the past;

- (g) where there are two or more businesses other than a business consisting of speculative transactions and the losses sustained therein cannot be wholly set off under sub-section (1), the amount of loss which has not been so set off shall, for the purposes of this sub-section, be allocated to each such business in the same proportion as the loss sustained in each such business bears to the aggregate of the losses sustained in all such businesses.”;
- (c) after sub-section (3), the following sub-section shall be inserted namely:—
- “(4) For the purposes of this Act,—
- (i) life insurance business shall be deemed to be a distinct and separate business from any other kind of insurance business; and
 - (ii) where the speculative transactions carried on are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business.
 - (iii) a speculative transaction means a transaction in which a contract for purchase and sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

Provided that a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him shall not be deemed to be a speculative transaction.”

27. Amendment of section 24A, Act XI of 1922.—In sub-section (1) of section 24A of the principal Act, for the words “has been assessed in his hands”, the words “has been fully assessed in his hands” shall be substituted.

28. Amendment of section 25, Act XI of 1922.—(1) In section 25 of the principal Act,—

- (a) in sub-section (1), for the words “any year, an assessment may be made in that year” the words “any financial year, an assessment may be made at the rates in force in that financial year” shall be substituted; and to the said sub-section the following proviso shall be added, namely:—

“Provided that where such period exceeds the period of the previous year relating to the assessment year following that financial year, a separate assessment may be made on the income, profits and gains of such previous year and another assessment on the income, profits and gains of the remaining period”;

- (b) in sub-section (3), after the words “is discontinued”, the words “in the course of a previous year” shall be inserted, and for the words “the previous year”, wherever they occur, the words “the immediately preceding previous year” shall be substituted;

- (c) in sub-section (4), after the words “is succeeded” the words “in the course of a previous year” shall be inserted, and for the words “the previous year”, wherever they occur, the words “the immediately preceding previous year” shall be substituted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) The benefit of sub-section (3) and sub-section (4) shall not be given to any person unless such person has, before the expiry of one year from the date on which the business, profession or vocation was discontinued or succeeded to, as the case may be, given notice of such discontinuance or succession to the Income-tax Officer concerned.”

(2) The amendments made by clauses (a), (b) and (c) of sub-section (1) shall be given effect to as if they had been originally enacted.

29. Insertion of new section 25B, Act XI of 1922.—After section 25A of the principal Act, the following section shall be inserted, namely:—

25B. Liquidators, etc.—(1) Every person, in this section referred to as the “trustee”,—

(a) who is the liquidator of any company which is being wound up under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company; or

(c) who is an agent of a person not resident in the taxable territories, and has been required by his non-resident principal to wind up the business or to realise the assets of the principal,

shall, within thirty days after he has become such trustee, give notice of his appointment as such to the Income-tax Officer who is entitled to assess the income of the company or of the non-resident person.

(2) The Income-tax Officer shall, after making such inquiries or calling for such information as he may deem fit with respect to the assets of the company or the properties in the hands of the trustee, notify to the trustee the amount which in the opinion of the Income-tax Officer would be sufficient to provide for any tax which then is or is likely thereafter to become payable by the company or the principal or the agent of the principal, as the case may be.

(3) The trustee—

(a) shall not without the leave of the Income-tax Officer part with any of the assets of the company or of the principal;

(b) shall set aside, out of the assets coming into his possession, assets to the value of the amount so notified, or the whole of such assets if they are of a value equal to or less than that amount; and

(c) shall, to the extent of the value of the assets which he is so required as aforesaid to set aside, be personally liable to pay the tax on behalf of the company or the non-resident person as the case may be.

(4) Where there is more than one trustee, the obligations and liabilities attaching to the trustee under this section shall attach to all the trustees jointly and severally.

(5) The amount notified by the Income-tax Officer under sub-section (2) shall not be called in question in any proceeding before any court under any law, and the provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.’

30. Amendment of section 26A, Act XI of 1922.—After sub-section (2) of section 26A of the principal Act, the following sub-section shall be inserted, namely:—

“(3) If the particulars contained in the application made under sub-section (2) are found to be incorrect, the registration granted to the firm under sub-section (1) for any year shall be cancelled and the firm shall, subject to the provisions of sections 33B or section 34, be assessed or reassessed to tax as if it were an unregistered firm, association of persons or individual as the case may be.”

31. Omission of section 27, Act XI of 1922.—Section 27 of the principal Act shall be omitted.

32. Amendment of section 28, Act XI of 1922.—In section 28 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) If the Income-tax Officer, the Appellate or Inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, whether or not such proceedings relate to the assessment in which any default or concealment has occurred, is satisfied that any person has without reasonable cause failed to comply or has without reasonable cause failed to comply within the time allowed, if any, in that behalf, with the requirements of any notice under section 22 or section 23 or section 34 or has concealed the particulars of his income or has negligently or deliberately furnished any inaccurate or incomplete particulars in his return of total income or in any information furnished in compliance with the notice under sub-section (4) of section 22 or in any evidence furnished under section 23, he or it may direct that such person shall, in addition to the amount of income-tax and super-tax, on his total income (which amount in this sub-section is referred to as “such sum”) pay by way of penalty an amount computed as follows:—

(a) where the return of total income required by the notice under sub-section (1) of section 22 is not furnished within the time allowed by such notice but is furnished before the commencement of the next financial year, the penalty payable shall be an amount not exceeding three hundred rupees or one-fourth of such sum whichever is the less:

Provided that if a return is furnished before the commencement of the next financial year and before the issue of a notice under sub-section (2) of section 22, there shall be no penalty;

(b) where the return of total income required by the notice under sub-section (1) of section 22 is not furnished or is furnished after the commencement of the next financial year, or where the return of total income required by the notice under sub-section (2) of section 22 or section 34 is not furnished or is furnished after the time allowed by such notice, the penalty payable shall be an amount not exceeding such sum,

- (c) where the return of total income required by the notice under sub-section (2) of section 22 or section 34 has not been furnished and a notice under sub-section (4) of section 22 has also not been complied with within the time allowed by the notice, the penalty payable shall be an amount not exceeding one and a half times such sum;
- (d) where the return of total income has been furnished, but any notice under sub-section (4) of section 22 or sub-section (2) or sub-section (3) of section 23 has not been complied with within the time allowed by the notice, the penalty payable shall be an amount not exceeding the difference between such sum and the amount of income-tax and super-tax, if any, which would have been payable had the income as returned been accepted as the correct income;
- (e) where a return of total income furnished is incorrect or incomplete in any material particulars, and such incorrectness or incompleteness is due to negligence, the penalty payable shall be an amount not exceeding one-half but not less than one-fourth of the amount of the difference between such sum and the amount of income-tax and super-tax, if any, which would have been payable had the income as returned been accepted as the correct income;
- (f) where a return of total income or any information or evidence furnished as aforesaid is found to be deliberately incorrect or incomplete in any material particulars or where any particulars of income have been concealed, the penalty payable shall be an amount not exceeding one and a half times but not less than the difference between such sum and the income-tax and super-tax, if any, which would have been payable had the income as returned been accepted as the correct income:

Provided that—

- (i) the aggregate of the amounts of penalties imposable under this sub-section shall not exceed one and a half times such sum in any case;
- (ii) where the assessment in respect of which penalty is imposable is for a year which is outside the limit of time specified in section 33B, or section 34, as the case may be, the expression "such sum" shall for the purposes of computing the penalty, mean income-tax and super-tax which would have been payable on the true total income had it been assessed at the proper time, and the amount of the penalty shall not, in any case, be less than the amount of income-tax and super-tax, which has been avoided by such person for that year;
- (iii) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income does not exceed the maximum amount not chargeable to income-tax in his case by more than one thousand rupees, unless he has been served with a notice under sub-section (2) of section 22;

- (iv) where a person has failed to comply with the notice under sub-section (2) of section 22 or section 34, and proves that he has no income liable to tax, the penalty imposed under this sub-section shall be a penalty not exceeding twenty-five rupees;
 - (v) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in the taxable territories for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him;
 - (vi) where the person liable to penalty is a registered firm whose registration in consequence of proceedings under this section has not been cancelled, or is an unregistered firm treated under clause (b) of sub-section (5) of section 23 as a registered firm, so that the amount of the income-tax and super-tax payable by the firm itself has not been determined, the amount of penalty payable by the registered firm shall be that amount which would have been payable had such firm been assessed as an unregistered firm.';
- (b) in sub-section (2),—
- (i) for the words "Appellate Assistant Commissioner or the Appellate Tribunal" the words "Appellate or Inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal" shall be substituted;
 - (ii) after the words "proceedings under this Act" the words "whether or not such proceedings relate to the assessment of which the distribution of profits is in question" shall be inserted; and
 - (iii) for the words "he or it may direct" the words "he or it may, if the registration of the firm has not been cancelled, direct" shall be substituted;
- (c) after sub-section (2), the following sub-section shall be inserted namely :—
- "(2A) If the Income-tax Officer, the Appellate or Inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, whether or not such proceeding relate to the assessment in which the abetment occurred, is satisfied that any person has knowingly or wilfully abetted another person to commit a default or to do anything which has rendered that other person liable to any penalty under sub-section (1) or sub-section (2) he or it may direct that such first mentioned person shall, without prejudice to any action that may be taken against him under this Act or under any other law, pay a penalty of an amount not exceeding the amount of penalty which has been imposed on that other person or five thousand rupees whichever is the less:
- Provided that no such penalty shall be imposed unless such first mentioned person has been heard, or has been given a reasonable opportunity of being heard :
- Provided further that where the first mentioned person is a member of a firm constituted for the exercise of a profession or vocation, each member of the firm shall be jointly and severally liable for the penalty levied under this section.";

(d) in sub-section (5), for the words, brackets and figures, "Appellate Assistant Commissioner or the Appellate Tribunal on making an order under sub-section (1) or sub-section (2)" the following shall be substituted, namely:—

"Appellate or Inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal on making an order under sub-section (1), sub-section (2) or sub-section (2A);"

(e) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Where a penalty under sub-section (1), sub-section (2) or sub-section (2A) has been imposed upon any person, the Income-tax Officer may, with the previous sanction of the Commissioner, publish the name, address and other particulars relating to that person or his affairs in such manner as may be specified by the Central Board of Revenue."

33. Amendment of section 30, Act XI of 1922.—In section 30 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any assessee—

- (i) objecting to the amount of income assessed or the amount of tax determined, as the case may be, under section 23, or to the amount of loss computed under section 24, or
- (ii) objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (4) of section 23, or to a refusal to register a firm under sub-section (4) of that section or section 26A, or
- (iii) objecting to an order made by an Income-tax Officer under sub-section (2) of section 25 or section 25A or sub-section (2) of section 26 or section 28, or
- (iv) objecting to an order of rectification or of refusal to rectify made by an Income-tax Officer under section 35, or
- (v) objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46, or
- (vi) objecting to a refusal by an Income-tax Officer to allow a claim to a refund under section 48 or section 49F, or objecting to the amount of the refund allowed by an Income-tax Officer under any of those sections, or
- (vii) denying his liability to be assessed under this Act, or
- (viii) being a company, objecting to an order made by the Income-tax Officer under sub-section (1) of section 23A, may appeal to the Appellate Assistant Commissioner against the assessment, refusal or order as the case may be:

Provided that no appeal shall lie—

- (a) against an order passed by an Inspecting Assistant Commissioner, when exercising the powers of the Income-tax Officer in pursuance of a direction given by the Commissioner under sub-section (5) of section 5;

- (b) against an order under sub-section (1) of section 46, unless the tax has been paid within the time specified in the notice of demand for penalty;
- (c) against any order in respect of an assessment, if, on an application made by the Income-tax Officer in this behalf, the Appellate Assistant Commissioner is of the opinion that the assessee has not paid such amount of the tax due or furnished such security or banker's guarantee for payment of tax as appears to him to be reasonable in the circumstances:

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may, on behalf of the firm and after obtaining the signatures of the other partners to the petition, appeal to the Appellate Assistant Commissioner against any order of the Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, and the result of such appeal shall be binding on all the partners, and no partner shall, in any appeal relating to the assessment of his own total income, be entitled to raise any question in respect of matters determined by any order of the Income-tax Officer or by the Appellate Assistant Commissioner as a result of any appeal under this proviso.”;

- (b) in sub-section (1A), the brackets, figures, letters and word “(3A)” and “or (3C)” shall be omitted;
- (c) in sub-section (2), for the words, figures and letter “to register a firm under section 26A or of the date of the refusal to make a fresh assessment under section 27,” the following shall be substituted, namely:—
“or of the intimation of the order refusing to register, or cancelling the registration of, a firm under sub-section (4) of section 23 or section 26A.”

34. Amendment of section 31, Act XI of 1922.—In section 31 of the principal Act,—

- (a) in sub-section (2A), after the words “not wilful or unreasonable” the following shall be inserted, namely:—
“and the consideration of that ground does not involve the production of any evidence contrary to the provisions contained in sub-section (2B).”;
- (b) after sub-section (2A), the following sub-section shall be inserted, namely:—
“(2B) The Appellate Assistant Commissioner shall not, at the instance of the appellant, allow any evidence, whether oral or documentary, to be produced, which was not produced before the Income-tax Officer notwithstanding that the appellant was required specifically so to do by the Income-tax Officer, acting under this Act or which the appellant could with due diligence have produced before the Income-tax Officer but did not so produce in response to a notice under sub-section (2) of section 23:

Provided that the Appellate Assistant Commissioner may, after recording his reasons for so doing, allow to be produced any

additional evidence which may be necessary to enable him to dispose of the appeal, including the passing of an order therein enhancing an assessment.”;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) In disposing of an appeal, the Appellate Assistant Commissioner may—

(i) in the case of an order of assessment—

confirm, reduce, enhance, amend or set aside the assessment, or set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer may think fit or the Appellate Assistant Commissioner may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment;

(ii) in the case of an appeal against a computation of loss under section 24—

confirm or vary such computation;

(iii) in the case of an order cancelling or refusing the registration of a firm under sub-section (4) of section 23 or section 26A—

confirm such order or cancel it and direct the Income-tax Officer to register the firm and to assess the partners separately on their respective shares;

(iv) in the case of an order under sub-section (2) of section 25 or sub-section (7) of section 23A, or sub-section (2) of section 26 or section 48 or section 49F—

confirm, cancel or vary such order, and, in the case of an appeal against an order under sub-section (2) of section 26, direct a consequential modification of the assessments of the predecessors and the successors concerned;

(v) in the case of an order under sub-section (1) of section 25A,—

confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of section 25A;

(vi) in the case of an order under section 28, or sub-section (6) of section 44E, or sub-section (5) of section 44F, or sub-section (1) of section 46—

confirm or cancel such order or vary it so as either to enhance or reduce the penalty;

(vii) in the case of an appeal under sub-section (1A) of section 30—

decide that the person is or is not liable to make the deduction and in the latter case direct the refund of the sum paid under sub-section (6) of section 18:

Provided that the Appellate Assistant Commissioner shall not enhance an assessment or a penalty unless the appellant has had a

reasonable opportunity of showing cause against such enhancement:

Provided further that at the hearing of any appeal against an order of an Income-tax Officer, the Income-tax Officer shall have the right to be heard either in person or by a representative or to submit in duplicate a brief statement in writing of his arguments or objections a copy of which shall be furnished to the appellant at the time of hearing of the appeal.”;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Every order passed on appeal by the Appellate Assistant Commissioner shall contain a clear specification of the relief, if any, granted and the precise effect thereof on the assessment or on the order appealed against, and a copy of the order shall be sent to the assessee and the Commissioner.”

35. Amendment of section 33, Act XI of 1922.—In section 33 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“33. *Appeals to Appellate Tribunal.*—(1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 28 or section 31 or to an order passed by an Inspecting Assistant Commissioner or Commissioner under section 28 may appeal to the Appellate Tribunal within sixty days of the date on which a copy of the order is received by him.

(1A) Any assessee objecting to any such order as is referred to in sub-section (1) of section 30, passed by an Inspecting Assistant Commissioner when exercising the powers of an Income-tax Officer, may appeal to the Appellate Tribunal within the time specified in sub-section (2) of that section, and the provisions of sections 30 and 31 shall, so far as may be, apply to such appeal as they apply to an appeal to the Appellate Assistant Commissioner from an order of the Income-tax Officer.”;

(b) in sub-section (2), for the words “the order is communicated to the Commissioner by” the words “a copy of the order is received by the Commissioner from” shall be substituted;

(c) sub-section (2A) shall be renumbered as sub-section (2B) and before the sub-section as so renumbered, the following sub-section shall be inserted, namely:—

“(2A) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the service upon him of the notice, file a memorandum of cross-objections

against any part of the order of the Appellate Assistant Commissioner and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time under sub-section (1) or sub-section (2), as the case may be.”;

- (d) in sub-section (2B) as so renumbered, after the words “admit an appeal” the words, figure, letter and brackets “other than an appeal under sub-section (1A)” shall be inserted;
- (e) in sub-section (4), for the words “and shall communicate any such orders to the assessee and to the Commissioner” the words, figures, letter and brackets “and shall send a copy of any such orders to the assessee and to the Commissioner, and the provisions of sub-sections (2B), (3) and (5) of section 31 shall, so far as may be, apply to the orders and proceedings of the Appellate Tribunal” shall be substituted.

36. Amendment of section 34, Act XI of 1922.—In the second proviso to sub-section (3) of section 34 of the principal Act, for the words and figures “to a reassessment made under section 27 or in pursuance of” the words “to an assessment or reassessment made in consequence of, or to give effect to any finding or direction contained in” shall be substituted.

37. Amendment of section 35, Act XI of 1922.—In section 35 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

- “(5) Where in respect of any completed assessment of a partner in a firm it is found on the assessment or reassessment of the firm or on any reduction or enhancement made in the income of the firm under section 31, section 33, section 33A, section 33B, section 66 or section 66A that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the firm.
- “(6) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or other proceeding [whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1951], and in consequence thereof it is necessary to recompute the total income of the assessee chargeable to income-tax, such recomputation shall be deemed to be rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years referred to in that sub-section being computed from the date of the order modifying the assessment of such excess profits tax or business profits tax.

Explanation.—For the purposes of sub-section (6), where the assessee is a firm, the provisions of sub-section (5) shall also apply as they apply to the rectification of the assessment of the partners of the firm.”

36. Substitution of new sections for section 37 in Act XI of 1922.—For section 37 of the principal Act, the following sections shall be substituted, namely:—

“37. *Power to take evidence on oath, etc.*—(1) Subject to any rules made in this behalf by the Central Government by notification in the Official Gazette, every income-tax authority shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents;
- (c) issuing commissions for the examination of witnesses.

(2) Any income-tax authority may impound and retain in its custody, for such period as it thinks fit, any books of account or other documents produced before it in any proceeding under this Act.

(3) Any proceeding before an income-tax authority or Appellate Tribunal under this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and every such authority shall be deemed to be a revenue court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

37A. *Power to enter premises, etc.*—(1) Any income-tax authority not below the rank of Assistant Commissioner and, if specially authorised in this behalf by any other income-tax authority, an Income-tax Officer may—

- (i) enter any building or place, whether belonging to the person liable to assessment or otherwise, if it or he has reason to believe that any books of account or other documents of any such person may be found therein;
 - (ii) seize any such books of account or documents or place marks of identification thereon or make extracts or copies therefrom;
 - (iii) make a note or an inventory of any other article or thing found in the course of the search which in its or his opinion may be useful for or relevant to any of the purposes of this Act,
- and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to searches, so far as may be, shall apply to searches made under the authority of this sub-section:

Provided that where in the opinion of an Income-tax Officer of Class I service it is not practicable to obtain the special authorisation of any other income-tax authority before proceeding to act under this section, he may exercise any of the powers given by this sub-section without such previous authorisation, and where he does so, he shall forthwith make a report thereof in writing to the Inspecting Assistant Commissioner stating the reasons which called for the exercise of such powers without obtaining such previous authorisation.

- (2) Notwithstanding anything contained in sub-section (1) but without prejudice to the provisions contained therein, it shall be lawful for any income-tax authority to enter at all reasonable times any building or place belonging to or occupied by any person

liable, or believed by it to be liable to assessment for the purpose of making any inquiry which, in the opinion of that authority, would be useful for the purposes of this Act, and the authority may examine the books of account or other documents of such person and place marks of identification thereon or make extracts or copies therefrom.

- (3) Notwithstanding anything in any other law to the contrary, every person shall be bound—
- (a) to produce to the income-tax authority such books of account or other documents in his charge or custody as he may be required to produce;
 - (b) to give to the authority any information in his possession in respect of the books of account or other documents which may be required;
 - (c) to prepare such statements for, or furnish such information to, the authority as may be required;
 - (d) to answer all questions which may be put to him by the authority.”

39. Amendment of section 38, Act XI of 1922.—Section 38 of the principal Act shall be renumbered as sub-section (1) thereof, and in sub-section (1) as so renumbered,—

- (a) for clause (1), the following clause shall be substituted, namely:—
“(1) require any Hindu undivided family, firm, or association of persons to furnish him with a return of the names and such other particulars of the members as may be prescribed;”;
- (b) for clause (3), the following clause shall be substituted, namely:—
“(3) require any person to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, premium, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head “salaries”, or any other sum chargeable under the Act amounting to more than four hundred rupees, together with particulars of all such payments made;”;
- (c) after clause (4), the following clauses shall be inserted, namely:—
“(5) require any person doing or managing any business on behalf of another person not resident in the taxable territories or having any business connection with such other person within the meaning of section 42 to furnish a statement of the names and addresses of all such persons on whose behalf he has done business in the taxable territories or with whom he has such business connection in any year;
- (6) require any banking or insurance company, notwithstanding anything in any law to the contrary, to furnish a statement of the names and addresses of all persons who have made deposits or have taken loans or overdrafts or who have made remittances or who have taken policies in any year of such amount as may be prescribed together with particulars of the deposits, loans, overdrafts, remittances, policies and of the securities and other property lodged with the banking or insurance company, as the case may be;

- (7) require any chartered accountant to furnish a statement of the names and addresses of the businesses and of the proprietors thereof whose accounts were audited by him in any year together with the particulars of the period to which the accounts relate and the scope of such audit;
- (8) require any person who owns jointly with other persons any security, stocks, shares or deposits or property to furnish a statement of the names and addresses of all persons who have a beneficial interest therein and the extent of such beneficial interest;
- (9) require any person maintaining a safe deposit vault to furnish the names and addresses of all persons who have or had at any time hired lockers or have lodged any property for safe custody;
- (10) require any person to furnish such information or evidence which may directly or indirectly be useful for or relevant to any assessment made or to be made";
- (d) after sub-section (7) as so renumbered, the following sub-section shall be inserted, namely:—
“(2) Any return or statement required under sub-section (7) shall be in the prescribed form and verified in the prescribed manner.”

40. Amendment of section 41, Act XI of 1922.—In sub-section (1) of section 41 of the principal Act,—

- (i) after the words and figures “the Mussalman Wakf Validating Act, 1913,” the words “or the Shabait or other manager of a property held under a private religious trust or an endowment or any other legal obligation” shall be inserted;
- (ii) for the first proviso, the following proviso shall be substituted, namely:—
“Provided that in the following cases the tax on such income, profits and gains shall be levied and recoverable at the maximum rate, namely:—
(i) where the income, profits and gains are receivable on behalf of or for the benefit of an artificial or juridical person;
(ii) where the income, profits and gains are not specifically receivable on behalf of any individual; or
(iii) where the income, profits and gains are receivable on behalf of or for the benefit of more than one person, and the relevant document or record, if any, does not specify the separate share of each person; unless the persons, none of them being an artificial or juridical person, have no other personal income chargeable under this Act, in which case the tax shall be levied and recoverable, as if such income, profits and gains or such part thereof were the total income of an association of persons.”.

41. Amendment of section 42, Act XI of 1922.—In section 42 of the principal Act,—

- (a) for the words beginning with “All income” and ending with the words “the assessee in respect of such income-tax:,” the following shall be substituted, namely:—
“Save as otherwise provided in sub-section (1) of section 4, all income, profits or gains accruing or arising, whether directly or indirectly through or from any business connection in the

taxable territories, or through or from any property in the taxable territories, shall be deemed to be income accruing or arising within the taxable territories, and where the person entitled to the income, profits or gains is not resident in the taxable territories, he shall be chargeable to income-tax either in his own name or in the name of his agent treated as such under section 43, and in the latter case such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax, all income, profits or gains of such person chargeable in the taxable territories, whether receivable by him direct or through or from any other person, being assessed in the name of such agent:";

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) Where a notice under sub-section (2) of section 22 or section 34 has been issued for the purposes of making an assessment in the case of a person not resident in the taxable territories (whether such notice is issued to him direct or to his agent treated as such under section 43), the Income-tax Officer may, if he thinks that the circumstances of the case so require, issue, pending completion of the assessment, an order prohibiting any person holding any assets of, or from whom any money is due to, the person not resident, from transferring such assets or paying such money to the person not resident or to any other person on his behalf, and any such order issued by the Income-tax Officer shall be in force for such period as may be specified in the order and shall have the same effect as an attachment by the Collector in the exercise of his powers under the proviso to sub-section (2) of section 46.

(1B) If any person to whom an order under sub-section (1A) has been issued fails to comply therewith, he shall be personally liable for the payment of the tax due on the total income of the person not resident to the extent of the value of the asset or the money so held or payable by him, and, for the purpose of Chapter VI of this Act, such person shall be deemed to be an assessee in default.”;

(c) for sub-section (2), the following sub-section shall be substituted namely:—

“(2) Where a person carries on business in the taxable territories and it appears to the Income-tax Officer that, owing to the close connection between such person and another person who is not resident and is not chargeable in the taxable territories the business carried on in the taxable territories produces to such first mentioned person either no profits in the taxable territories or less than the ordinary profits which might be expected to arise in the taxable territories in that business such first mentioned person shall be chargeable to tax on such amount of profits as might reasonably have been expected to arise or deemed to arise in the taxable territories but for the close connection between him and the other person.”;

(d) in sub-section (3), for the words “shall be” the words “shall subject to any rules made in this behalf by the Central Board of Revenue for any such business or class of business, be” shall be substituted.

42. Amendment of section 44, Act XI of 1922.—Section 44 of the principal Act shall be renumbered as sub-section (I) thereof, and after that sub-section as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in the Indian Companies Act, 1913 (VII of 1913), where, in respect of the profits and gains of any previous year, whether such previous year is the previous year for the assessment for the year ending on the 31st day of March, 1952, or is the previous year for the assessment for any year prior or subsequent thereto, tax is or has been assessed on a company, whether before or in the course of or after its liquidation, if any, and any such tax cannot be recovered from the company, then—

(i) every person who is or was a shareholder of the company at any time during the relevant previous year, and

(ii) every other company whose shares carrying not less than ninety per cent. of the voting power are or were owned directly or indirectly by the first mentioned company at the end of the relevant previous year,

shall be jointly and severally liable for the payment of the tax, and shall, for the purposes of sections 45 and 46, be deemed to be an assessee in default:

Provided that clause (i) of this sub-section shall not apply where the company is, within the meaning of the *Explanation* to sub-section (I) of section 23A, deemed to be a company in which the public are substantially interested.”

43. Substitution of new Chapter for Chapter VA in Act XI of 1922.—For Chapter VA of the principal Act, the following Chapter shall be substituted, namely:—

“CHAPTER VA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPS AND AIRCRAFT.

44A. Liability to tax on ships or aircraft in respect of occasional trips.—The provisions of this Chapter shall, notwithstanding anything contained in any other provision of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of the taxable territories and carries on business in the taxable territories in any year as the principal owner or charterer of a ship or of an aircraft (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer—

(a) in the case of the principal of a ship, is satisfied, or

(b) in the case of the principal of an aircraft, has notified the Customs Collector or other officer authorised in this behalf by the Customs Collector,

that there is an agent of such principal from whom the tax will be recoverable in the following year under the provisions of this Act.

44B. Return of profits and gains.—(1) Before the departure from any port in the taxable territories of any ship, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal or to any person on his behalf on account of the carriage of all passengers, livestock or goods shipped at that port since the last arrival of the ship therat.

(2) Before the departure from any customs aerodrome in the taxable territories of any aircraft, the pilot or other person in charge of the aircraft shall prepare and furnish to the Customs Collector or other officer authorised by the Customs Collector in this behalf a return of the full amount of the fare and freight paid or payable to the principal or to any person on his behalf on account of the carriage of all passengers, livestock or goods booked by the aircraft in the taxable territories since the last of such returns, if any, was made.

(3) On receipt of the return, the Income-tax Officer, if the matter relates to a ship and the Customs Collector or other officer, if the matter relates to an aircraft, shall assess the amount referred to in sub-section (1) or, as the case may be, in sub-section (2), and may for this purpose call for or inspect such accounts or documents as he may require, and the amount of the profits and gains accruing to the principal shall—

(a) where it relates to the carriage of the passengers, livestock and goods shipped at the port, be deemed to be one-sixth of the amount so assessed, and

(b) where it relates to the carriage of the passengers, livestock and goods booked at the aerodrome, be deemed to be one-sixteenth of the amount so assessed.

(4) When the profits and gains have been assessed as aforesaid, the Income-tax Officer, Customs Collector or other officer, as the case may be, shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship or, as the case may be, the pilot or other person in charge of the aircraft, and a port-clearance shall not be granted to the ship or aircraft until the Customs Collector, or other officer authorised in this behalf by the Customs Collector or any other officer duly authorised to grant the same is satisfied that the tax has been duly paid.

(5) Every Customs Collector and any other officer authorised in this behalf by the Customs Collector who has collected any sums under this Chapter shall, within such time and in such manner as may be prescribed by the Central Board of Revenue, pay the amount so collected to the credit of the Central Government and shall also furnish to the Income-tax Officer such statements and information in this behalf as may be prescribed.

44C. Adjustment.—Nothing in this Chapter shall be deemed to prevent the principal from claiming in any financial year that a regular assessment be made of his total income of the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, he shall be entitled to credit for any payment made during the previous year, and the difference between the sum so paid and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be."

44. Amendment of section 44D, Act XI of 1922.—In section 44D of the principal Act,—

(a) in sub-section (1), the words "or to a person resident but not ordinarily resident" shall be omitted;

(b) in sub-section (2), the words "or resident but not ordinarily resident" shall be omitted.

45. Insertion of new section 44G in Act XI of 1922.—In Chapter VB, after section 44F of the principal Act, the following section shall be inserted, namely:—

* “**44G. Liability to tax in the case of unknown shareholders, depositors, etc.**—(1) Where an Income-tax Officer is of the opinion that any person registered as shareholder or debenture holder of a company or shown as depositor or creditor in the books of a company or of any other person is either not in existence or not traceable at the address, if any, given in the books of the company or in the books of that other person, or that the registered shareholder, debenture holder, depositor or creditor disowns the share, debenture, deposit or credit, the Income-tax Officer may, by notice, require the company or that other person, as the case may be, to take steps in the prescribed manner to trace the shareholder, debenture holder, depositor or creditor, as the case may be, and thereupon such share, debenture, deposit or credit shall not be dealt with in any manner by the company or that other person except with the written authority of the Income-tax Officer.

(2) If before the expiry of two years from the date of the notice referred to in sub-section (1), the company or the other person is not able to prove to the satisfaction of the Income-tax Officer the identity, existence and address of the shareholder, debenture holder, depositor or creditor, as the case may be, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, pass an order accordingly, and thereupon the entire value of such share, debenture, deposit or credit shall, notwithstanding any time-limit specified in section 34, be deemed to have been the tax evaded by the unknown person who is the shareholder, debenture holder, depositor or creditor, as the case may be, and within one week of the date on which the company or that other person is served with a copy of the Income-tax Officer's order—

- (a) the company shall cancel the original share certificate or debenture bond, and issue a duplicate share certificate or debenture bond in the name of, and
- (b) in the case of a deposit or credit, the company or other person shall transfer the same to the Reserve Bank of India for and on behalf of the Consolidated Fund of India:

Provided that the Income-tax Officer may, for good and sufficient cause, extend the time for transferring a deposit or credit under this sub-section.

(3) Any company which has issued a duplicate share certificate or debenture bond or any company or other person who has transferred his deposit or credit within the time specified in sub-section (2) or within such further time as may have been allowed by the Income-tax Officer, shall be indemnified against all claims that may be made in respect of the cancellation of the original share certificate or debenture bond and the issue of duplicate certificate or bond, or the transfer of the amount of deposit or credit, if the company or the other person, within one month of the date of the notice referred to in sub-section (1),

publishes or causes to be published in the Gazette of India and in a daily newspaper a notice in the prescribed form calling upon the registered shareholder, debenture holder, depositor or creditor to prove before the Income-tax Officer having jurisdiction his identity and his title (and such further facts as may be required by the notice to be proved) to the share, debenture, deposit or credit, as the case may be.

- (4) Any company or any other person who does not comply with the requirements of sub-section (1) or sub-section (2) in respect of the issue of duplicate share certificate or debenture bond, or the transfer of the amount at deposit or credit, shall be deemed to be an assessee in default in respect of the entire value of such share, debenture, deposit or credit and all the provisions of this Act shall apply accordingly.
- (5) Any person claiming himself to be entitled to any share, debenture, deposit or credit in respect of which the Income-tax Officer has passed an order under sub-section (2), may, within thirty days of the date on which the company or the other person has been served with a copy of the Income-tax Officer's order, appeal to the Appellate Assistant Commissioner of Income-tax, in the same manner as if he were denying his liability to be assessed under this Act and all the provisions of this Act, shall apply accordingly."

46. Insertion of new section 45A in Act XI of 1922.—After section 45 of the principal Act, the following section shall be inserted, namely:—

"**45A. Liability for tax in respect of income from certain assets included in the total income of persons other than ostensible owners, etc.**—Where in accordance with the provisions of clause (c) of sub-section (1) or sub-section (3) of section 16 or section 44D or for any other reason, the income from any assets or dealings in such assets is included in the total income of any person who is not the ostensible or legal owner of such assets, then, notwithstanding the provisions contained in any other law for the time being in force, the tax in respect of the income so included may be recovered from the ostensible or legal owner of those assets:

Provided that no such recovery shall be made unless the ostensible or legal owner had notice of the assessment proceedings at any time before the assessment was made whereby the income came to be so included in the total income of that other person."

47. Amendment of section 46, Act XI of 1922.—In section 46 of the principal Act,—

- (a) for sub-section (1), the following sub-section shall be substituted, namely:—
 - (1) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may—
 - (a) direct, in his discretion, that in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty;

- (b) with the previous approval of the Commissioner, publish, in such manner as may be prescribed the name and address of, and the amount of arrears and penalty due from, the assessee in default.

Explanation.—For the purposes of this section, the word “arrears”, in any case in which an assessee has been allowed to pay any demand payable under this Act by instalments (whether by an income-tax authority or by the Collector) and has made default in the due payment thereof, means the aggregate of the amount of all the instalment still remaining to be paid after the date of the default.’;

- (b) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(B) Where an assessee dies before payment of the income-tax or penalty due from him, the income-tax and penalty due may be recovered from his executor, administrator or other legal representative and for the purposes of this section, such executor, administrator or other legal representative shall be deemed to be the assessee in default and all proceedings may be taken or continued against him accordingly:

Provided that the liability under this section of the executor, administrator or other legal representative shall be limited to the extent to which the estate of the deceased which has come into his hands is capable of meeting the charge.”;

- (c) in sub-section (5A), for the last paragraph, the following paragraph shall be substituted, namely:—

“Where a person to whom a notice under this sub-section is sent, objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee or that a third person has a lien or charge on, or other interest in, such sum, the Income-tax Officer shall proceed to investigate the objection, and, if after making such investigation thereinto as he thinks fit, he is satisfied that the objection is wholly or partly proved, he shall rescind or modify the notice issued by him under this sub-section and if he is satisfied that the objection has not been proved, he shall disallow the objection, in which case the notice given shall be effective until the Income-tax Officer’s finding is set aside by a civil court.”

Provided that where any investigation under this paragraph concerns the lien or charge of a third person, no such investigation shall be made until such person has been given notice thereof and an opportunity to adduce evidence in support of his claim.”;

- (d) after sub-section (5A), the following sub-section shall be inserted, namely:—

“(5B) The Income-tax Officer may, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income-tax Officer), prohibit any person holding in his custody any assets belonging to the assessee from parting with them, either in favour of the assessee or any other person, and any such notice shall have the same effect as if it were an attachment by the Collector in exercise of his powers under the proviso to sub-section (2).

(5C) If any person to whom a notice under sub-section (5B) is sent, fails to comply with the notice and parts with the assets, he shall be deemed to be an assessee in default, so however that the extent of his liability shall not exceed the value of the assets he has so parted with:

Provided that if any such person parts with the assets in favour of the assessee in any case where the particulars of the assets have not been disclosed to him by the assessee, whether at the time when the assets were placed in his custody or at any time subsequent thereto, he shall be deemed to have committed an offence under this sub-section and on conviction before a magistrate, be punishable with imprisonment which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.”;

(e) to sub-section (7) the following *Explanation* shall be added, namely:—

'Explanation.—“A proceeding for the recovery of any sum” shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and, for the removal of doubts, it is hereby declared that the several modes of recovery specified in this section are not mutually exclusive and do not in any way affect any other law for the time being in force relating to the recovery of debts due to Government.’

48. Insertion of new section 46A in Act XI of 1922.—After section 46 of the principal Act, the following section shall be inserted, namely:—

‘46A. Persons leaving India to obtain tax clearance certificates.—(1) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India or who, even if domiciled in India at the time of his departure, has, in the opinion of an income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (in this section referred to as the “competent authority”) a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person:

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory, allows any person to whom sub-section (1) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by

that sub-section, he shall be personally liable to pay the amount of tax, if any, which is or may be payable by such person and shall also be punishable with fine which may extend to two thousand rupees.

Explanation.—For the purposes of this sub-section the expressions “owner” and “charterer” include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

- (3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub-section (1) of section 46 of this Act.
- (4) The Central Government may make rules for regulating any matter necessary for or incidental to the purpose of carrying out the provisions of this section.’

49. Amendment of section 49D, Act XI of 1922.—For section 49D of the principal Act, the following section shall be substituted, namely:—

- ‘49D. Relief in respect of income accruing or arising outside the taxable territories.**—(1) If any person who is resident in the taxable territories in any year proves that, in respect of his income which accrues or arises during that year without the taxable territories (and which is not deemed to accrue or arise in the taxable territories) he has paid in any country with which there is no reciprocal arrangement for relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower.
- (2) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the assessment for the year ending on the 31st day of March, 1950, or for the year ending on the 31st day of March, 1951.

Explanation.—In this section,—

- (i) the expression “Indian income-tax” means income-tax and super-tax charged in accordance with the provisions of this Act;
- (ii) the expression “Indian rate of tax” means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income;
- (iii) the expression “rate of tax of the said country” means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, divided by the whole amount of the income assessed in the said country.

50. Amendment of section 49E, Act XI of 1922.—In section 49E of the principal Act, for the words "against the tax" the words "against the tax, interest or penalty" shall be substituted.

51. Substitution of new section for section 51, Act XI of 1922.—For section 51 of the principal Act, the following section shall be substituted, namely:—

- "51. *Failure to make payments or deliver returns or statements, etc.*
—If a person fails without reasonable cause or excuse—
 (a) to deduct and pay tax as required under section 18 or sub-section (5) of section 46;
 (b) to furnish a certificate required under sub-section (9) of section 18 or section 20;
 (c) to furnish in due time any of the returns mentioned in section 19A, section 20A, section 21, sub-section (2) of section 22, or section 38;
 (d) to furnish in due time the return required under sub-section (1) of section 22 in any case where the total income exceeds the amount not chargeable to income-tax by two thousand rupees provided the failure was also wilful;
 (e) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice;
 (f) to comply with any provisions of section 25B or fails as a trustee duly to pay the tax for which he is liable under the said section;
 (g) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,
 he shall, on conviction before a magistrate, be punishable with fine which may extend to ten rupees or with imprisonment for one day for every day during which the failure continues."

52. Substitution of new section for section 52, Act XI of 1922.—For section 52 of the principal Act, the following section shall be substituted, namely:—

- "52. *False statement in declaration.*—(1) If a person makes a statement in a verification mentioned in section 19A or section 20A or section 21 or sub-section (2) of section 26A or sub-section (3) of section 30 or sub-section (3) of section 33A or sub-section (2) of section 38 which is false or incomplete, and which he either knows or believes to be false or incomplete, or does not believe to be true or complete, he shall, on conviction before a magistrate, be punishable with simple imprisonment which may extend to six months and with fine which shall not be less than one thousand rupees.
 (2) If a person makes a statement in a verification mentioned in sub-section (1) or sub-section (2) of section 22 which is false or incomplete and which he either knows or believes to be false or incomplete or does not believe to be true or complete, or produces or causes to be produced accounts or documents in response to a notice under sub-section (4) of the said section or sub-section (2) of section 23, which are false and which he either knows or believes to be false or does not believe to be true, he shall, on

conviction before a magistrate, be punishable with rigorous imprisonment which may extend to seven years but which shall not be for less than three years and with fine which shall not be less than the amount of the tax which would have been lost or the refund which would have been allowed in excess, had the verification of the accounts or documents been accepted at their face value.

- (3) The provisions of sections 233 and 234 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply to the trial of offences under this section or to the trial of offences under sections 193, 196 and 228 of the Indian Penal Code (Act XLV of 1860), where the offences are committed in the course of assessment or refund or recovery proceedings relating to one and the same year of assessment of one and the same person, and for the purposes of section 235 of the Code of Criminal Procedure, 1898, all acts done in the course of such proceedings shall be deemed to form the same transaction."

53. Insertion of new section 52A in Act XI of 1922.—After section 52 of the principal Act, the following section shall be inserted, namely:—

"52A. *Abetment*.—If a person abets the commission of a default or the doing of anything by another person whereby the other person is rendered liable to prosecution under section 51 or section 52, the person abetting shall, on conviction before a magistrate, be punishable with the punishment provided for the offence abetted."

54. Substitution of new section for section 53, Act XI of 1922.—For section 53 of the principal Act, the following section shall be substituted, namely:—

"53. *Sanction to prosecute and compounding of offences*.—(1) No court shall take cognizance of an offence under section 51 or section 52 or section 52A except with the previous sanction of either the Appellate Tribunal or an income-tax authority not below the rank of an Assistant Commissioner.

- (2) Before granting sanction under sub-section (1), the Appellate Tribunal or the income-tax authority, as the case may be, may call upon the person concerned to show cause why he should not be prosecuted for the offence alleged to have been committed by him and may, if it so thinks fit, compound, with the previous approval of the Central Government, any such offence and any sum payable under any such composition may be recovered under this Act as an arrear of income-tax."

55. Amendment of section 54, Act XI of 1922.—In sub-section (3) of section 54 of the principal Act,—

- (i) for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) of any such particulars in connection with a prosecution under the Indian Penal Code (Act XLV of 1860), or under this Act, in respect of any matter arising in the course of the execution of this Act, or

- (b) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act, 1947;";
- (ii) in clause (d), after the word "Government" the words "or any person acting in the execution of this Act" shall be inserted;
- (iii) in clause (gg), the words "in connection with income-tax proceedings" shall be omitted and for the words "registered accountant" the words "chartered accountant" shall be substituted;
- (iv) in clause (p), for the word and figures "Ordinance, 1949" the word and figures "Act, 1950", and for the words "said Ordinance" the words "said Act, or" shall be substituted;
- (v) after clause (p), the following clauses shall be inserted, namely:—
- "(q) of any such particulars to the Advocate General where the Income-tax Officer has reason to believe that there has been a breach of trust relating to property held under trust or other legal obligation for religious or charitable purposes to enable the Advocate General to take such action as he may think fit, or
- (r) of any such particulars of an incriminatory character to any authority or court, legally entitled to take action in respect thereof, where such particulars have been furnished by the person with a view to reduce his liability to tax or to secure any other advantage under this Act, or
- (s) of any statements to any person or court, if the statements made by the assessee are of such a nature as enables another person to establish his right or title to any property or assets, or
- (t) with the previous sanction of the Commissioner, of any such particulars to any person, where the Income-tax Officer considers that that person would be in a position to help him in the detection of any concealed income, or
- (u) of any such particulars as may be necessary for the purposes of sub-section (7) of section 28 or of sub-section (1) of section 46 of this Act, or
- (v) of any such particulars to any department of the Central Government, or the Government of a State or to any court or to any local authority or a chamber of commerce with a view to enabling that Government or authority or court or chamber to confer upon or withdraw from any person any privilege, patronage, office, position of trust or benefit of any kind."

58. Amendment of section 58C, Act XI of 1822.—In sub-section (1) of section 58C of the principal Act,—

- (i) to clause (d) the following proviso shall be added, namely:—

"Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee, and of interest (simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (g).";

(x) in clause (g), after the words "maintaining the fund" the words "unless at the request of the employee made in writing the whole or a part of the accumulated balance due to him is retained in the fund to be drawn by him at any time on demand" shall be inserted.

57. Amendment of section 58P, Act XI of 1922.—Section 58P of the principal Act shall be renumbered as sub-section (1) thereof, and in that sub-section as so renumbered, for the words "the following conditions shall be satisfied" the words "it shall satisfy the conditions set out below and any other conditions which the Central Government may, by rules prescribe" shall be substituted, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Where there is a repugnancy between any rules of an approved superannuation fund or the terms of the instrument under which the fund is established and any provisions of this Chapter or of the rules made thereunder, the rules of the fund or the terms of the instrument under which the fund is established shall, to the extent of the repugnancy, be of no effect; and the Central Board of Revenue may at any time require that such repugnancy shall be removed from the rules of the fund or the terms of the instrument, as the case may be."

58. Amendment of section 58S, Act XI of 1922.—In section 58S of the principal Act,—

(a) in sub-section (2), the words "but not at or in connection with the termination of his employment" shall be omitted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Where a lump sum is paid to an employee or a former employee in commutation of or in lieu of an annuity, income-tax and super-tax on the sum so paid shall, except in the case of a person whose employment was carried on abroad, be deducted by the trustees at a rate equal to one-third of the rate of income-tax and super-tax at which the employee or the former employee would have been liable to income-tax and super-tax in respect of the previous year in which the payment is made, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct, and the provisions of sub-sections (4), (5), (6), (7), (8) and (9) of section 18 shall apply as if the sum to be deducted under this sub-section and sub-section (2) were income-tax payable under the head 'Salaries'."

59. Insertion of new section 58W in Act XI of 1922.—In Chapter IXB of the principal Act, after section 58V, the following section shall be inserted, namely:—

"**58W. Provisions relating to rules.**—(1) All rules made under this Chapter shall be subject to the provisions of sub-sections (4) and (5) of section 59.

(2) In addition to any power conferred by this Chapter, the Central Government may make rules—

(a) prescribing the statements and other information to be submitted with an application for approval;

- (b) limiting the 'ordinary annual contribution' and any other contribution by an employer;
- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund;
- (d) determining the extent to, and the manner in, which exemption from payment of income-tax and super-tax may be granted in respect of any payment made from a superannuation fund from which approval has been withdrawn;
- (e) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Chapter and of the rules made thereunder; and
- (f) generally, to carry out the purposes of this Chapter and to secure such further control over the approval of the superannuation funds and the administration of the approved superannuation funds as it may deem requisite."

60. Amendment of section 59, Act XI of 1922.—In sub-section (2) of section 59 of the principal Act, for clauses (c) and (d), the following clauses shall be substituted, namely:—

- "(c) prescribe the procedure for giving effect to the terms of any agreement for the avoidance of double taxation on income which may be entered into by the Central Government under section 49AA;
- (d) provide for the grant of rewards to persons giving definite information or assistance leading to the detection of any concealment or under-statement of income by an assessee, or to the recovery of any tax or penalty from him and the manner and circumstances in which rewards may be granted;".

61. Insertion of new section 59A in Act XI of 1922.—After section 59 of the principal Act, the following section shall be inserted, namely:—

"59A. Power to tender immunity from prosecution, etc.—(1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (Act XLV of 1860) or under any other Central law for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable."

62. Amendment of section 61, Act XI of 1922.—In section 61 of the principal Act,—

(a) in sub-section (2),—

(i) for clause (ii), the following clause shall be substituted, namely:—

'(ii) "lawyer" means any person entitled to plead in any civil or criminal court in the taxable territories, and includes a solicitor who, before the 1st day of April, 1951, has attended before an income-tax authority or the Appellate Tribunal on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee;';

(ii) for clauses (iii) and (iv), the following clauses shall be substituted, namely:—

'(iii) "accountant" means a chartered accountant as defined in the Chartered Accountants Act, 1949 (XXXVIII of 1949);

(iv) "income-tax practitioner" means a person who is for the time being enrolled in the Register of Income-tax Practitioners maintained by a Commissioner of Income-tax under sub-section (2B).';

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(2A) Any of the following persons shall, subject to the provisions contained in sub-section (3) and subject to any rules which the Central Board of Revenue may make in this behalf, be entitled on payment of such fee as may be prescribed to have his name entered in the Register of Income-tax Practitioners maintained by a Commissioner,—

(a) any person who before the 1st day of April, 1951, was entitled to act as an income-tax practitioner and has attended before an income-tax authority subordinate to that commissioner on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee;

(b) any person who has acquired such educational qualifications and experience or has passed such examination as the Central Board of Revenue may prescribe for this purpose:

Provided that nothing contained in clause (a) or clause (b) shall be deemed to prohibit any person having the requisite qualifications prescribed therein from having his name entered in the registers maintained by more than one Commissioner on payment of a separate fee for each registration;

(2B) Each Commissioner of Income-tax shall maintain in / the prescribed form a Register of Income-tax Practitioners, entitled to appear before an income-tax authority subordinate to him and may, at any time, remove from the register the name of any income-tax practitioner—

- (a) who has not paid any prescribed fee required to be paid by him; or
- (b) who is found at any time to be subject to any of the disqualifications mentioned in sub-section (3); or
- (c) who has been found guilty of misconduct under the rules made by the Central Board of Revenue in this behalf; or
- (d) whose name has been removed from the register maintained by any other Commissioner acting under clause (b) or clause (c).';;
- (e) in sub-section (3), for the words beginning with "No person who has been dismissed" and ending with the words "to represent an assessee under sub-section (1)", the following shall be substituted, namely:—

"(3) No person—

- (a) who has been dismissed from the service of Government after the 1st day of April, 1938; or
- (b) who has resigned from the service of Government before the completion of twenty-five years of service; or
- (c) who was formerly in the service of such department of Government as may be prescribed, unless two years have elapsed since the date of his leaving the service; or
- (d) who has been convicted of an offence connected with any income-tax proceedings or of any offence involving moral turpitude or on whom a penalty has been imposed under section 28, either in respect of his own assessment or for abetment of an offence in respect of the assessment of another person; or
- (e) who has been in partnership with any other person for the exercise of a profession or vocation during which that other person has been convicted of an offence connected with an income-tax proceeding or a penalty for abetment has been imposed on that other person under section 28; or

(f) who has become an insolvent,

shall be qualified to represent an assessee under sub-section (1), and if any lawyer or chartered accountant is found guilty of misconduct by the authority empowered to take disciplinary action against a member of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that the lawyer, chartered accountant or the other person, as the case may be, shall be disqualified, either for all time or for such period as may be specified, to represent an assessee under sub-section (1);'

(d) after sub-section (3), the following sub-section shall be inserted, namely:—

- “(4) In addition to any rules which may be made under sub-sections (2A) and (2B), the Central Board of Revenue may make rules—
- (a) regulating the conduct of income-tax practitioners;
 - (b) prescribing the form of application for enrolment in the Register of Income-tax Practitioners, and the procedure for making such an application;
 - (c) prescribing the amount of fee for each initial registration and for the annual renewal thereof and the time and mode of payment of such fee;
 - (d) providing for the refund of fees where the application for enrolment is rejected.”

63. Amendment of section 63, Act XI of 1922.—In section 63 of the principal Act,—

- (a) in sub-section (1), for the words “A notice” the words “Subject to any rules which the Central Board of Revenue may make in this behalf, a notice” shall be substituted;
- (b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Any such notice or requisition may—

 - (i) in the case of an individual, be addressed to him by name or in the name, if any, in which he is carrying on business, or, in the case of a minor or a lunatic or an idiot, to his guardian or trustee or, in the case of a deceased individual, to his legal representative;
 - (ii) in the case of a Hindu undivided family, be addressed to it in the name, if any, in which the family is carrying on business or to the manager or any adult member of the family or to the guardian of any minor member of the family, or where the family has become dissolved to any adult person who was the manager or a member of the family at the time of dissolution or where the dissolution is caused by the death of any member to the legal representative of any such deceased member;
 - (iii) in the case of a company, be addressed to it in the name of the company or to a principal officer thereof or in the case of a company other than a company in which the public are substantially interested within the meaning of section 23A, to any person who was a shareholder of the company at any time during the relevant previous year;
 - (iv) in the case of a firm, be addressed to it in the name of the firm or to any member of the firm, or where the firm has been dissolved, to any person who was a member of the firm or to any person who is the legal representative of a deceased person who was a member of the firm at any time during the relevant previous year;

(v) in the case of any other association of persons, be addressed to it in the name by which the association is generally known, or to the principal officer thereof, or where the association has become dissolved to the person who was the principal officer or who was a member of the association at any time during the relevant previous year or to the legal representative of any such deceased member."

64. Amendment of section 64, Act XI of 1922.—In sub-section (1) of section 64 of the principal Act, after the words "is situate" the following words shall be inserted, namely:—

"and where the business, profession or vocation has been discontinued by the Income-tax Officer of the area in which the place, or the principal place, at which the business, profession or vocation was carried on is situate."

85. Substitution of new section for section 66 in Act XI of 1922.—For section 66 of the principal Act, the following section shall be substituted namely:—

"66. Statement of case by Appellate Tribunal to High Court or to the Supreme Court.—(1) Within sixty days of the date on which he is served with an order under sub-section (4) of section 33, the assessee or the Commissioner may present an application to the Appellate Tribunal in the prescribed form, accompanied where the application is presented by the assessee by a fee of one hundred rupees in respect of each appeal disposed of by the order, requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and subject to the other provisions contained in this section the Appellate Tribunal shall within one hundred and eighty days of the receipt of such application draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period of sixty days hereinbefore specified, allow it to be presented within a further period not exceeding fifteen days.

(2) If on an application made under sub-section (1), the Appellate Tribunal—

(a) refuses to state a case on the ground that no question of law arises, or

(b) rejects it on the ground that it is time-barred,

the assessee or the Commissioner, as the case may be, may, in any case falling within clause (a) of this sub-section, within six months from the date on which he is served with the notice of refusal, and in any case falling within clause (b) of this sub-section, within two months from the date on which he is served with the notice of rejection, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and refer it to the High Court and so

receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly:

Provided that if in any case where it has been required by an assessee to state a case, the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application, and if he does so the fee paid by him under sub-section (1) shall be refunded.

- (3) Section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to an application to the High Court under sub-section (2).
- (4) If on an application made under sub-section (1), the Appellate Tribunal is of opinion that either on account of the importance of any question of law involved in the case or on account of a conflict in the decisions of different High Courts in respect of any particular question of law arising therefrom, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it direct to the Supreme Court.
- (5) If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it under this section are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as it may direct in that behalf.
- (6) The High Court or the Supreme Court upon hearing any such case shall decide the questions of law raised therein and shall deliver its judgment thereon containing the ground on which such decision is founded, and a copy of the judgment shall be sent under the Seal of the Court and the signature of the Registrar, to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.
- (7) The costs of any reference to the High Court or the Supreme Court shall be in the discretion of the Court.
- (8) Notwithstanding that a reference has been made under this section to the High Court or the Supreme Court, income-tax shall be payable in accordance with the assessment made in the case.
- (9) Where the amount of an assessment is reduced as a result of any reference to the High Court or the Supreme Court under this section, the amount overpaid shall be refunded with such interest as the Commissioner may allow, unless in the case of a reference to the High Court, the High Court, on an intimation given by the Commissioner within thirty days of the result of such reference that he intends to apply for leave to appeal to the Supreme Court, make an order authorising the Commissioner to postpone the payment of such refund until the disposal of the appeal to the Supreme Court.
- (10) For the purposes of this section, 'the High Court' means, if the place of assessment of the assessee is in the State of—
 - (a) Uttar Pradesh or Vindhya Pradesh,—
the High Court at Allahabad;

- (b) Bombay, Hyderabad, Madhya Bharat, Rajasthan, Saupashtra, Ajmer or Kutch,—
 the High Court at Bombay;
- (c) Assam, West Bengal, Manipur, Tripura or the Andaman and Nicobar Islands,—
 the High Court at Calcutta;
- (d) Madras, Mysore, Travancore-Cochin or Coorg,—
 the High Court at Madras;
- (e) Madhya Pradesh or Bhopal,—
 the High Court at Nagpur;
- (f) Bihar or Orissa,—
 the High Court at Patna, and
- (g) Punjab, Patiala and East Punjab States Union, Bilaspur, Delhi or Himachal Pradesh,—
 the High Court of Punjab.”

66. Amendment of section 66A, Act XI of 1922.—In sub-section (1) of section 66A of the principal Act, for the words, brackets and figures “and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (V of 1908) shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force” the following shall be substituted, namely:—

“and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges:

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.”

67. Amendment of section 67, Act XI of 1922.—In section 67 of the principal Act, for the words “No suit shall be brought in any civil court to set aside or modify an assessment made under this Act” the following shall be substituted, namely:—

“No suit or other proceeding shall be brought in any civil court to set aside or modify an assessment made under this Act, and no suit or other proceeding shall lie for the grant of any relief by any court which will have the effect of preventing the commencement or continuance of any assessment proceedings against any person under this Act.”

68. Amendment of section 67A, Act XI of 1922.—In section 67A of the principal Act, for the words “and the time requisite” the words “and, where a copy of the order has not been served on the person concerned, the time requisite” shall be substituted.

69. Amendment of section 67B, Act XI of 1922.—In section 67B of the principal Act, for the words “as if the provision in force in the preceding year or the provision proposed in the Bill then before the Parliament, whichever is more favourable to the assessee”, the words “as if the provision proposed in the Bill then before Parliament” shall be substituted.

70. Insertion of new section 67C in Act XI of 1922.—After section 67B of the principal Act, the following section shall be inserted, namely:—

"67C. Formal defects in proceedings not to invalidate assessments.—

(1) No assessment or other proceeding made or purporting to have been made in pursuance of this Act shall be deemed invalid merely on the ground of any error, omission, irregularity or other defect in the proceeding or in the form of any notice or order issued or made in connection therewith, if the error, omission, irregularity or other defect has not prevented a substantial compliance with this Act according to its true intent and purposes, and has not, in fact, occasioned a failure of justice.

(2) Without prejudice to the generality of sub-section (1) no assessment or demand made upon an assessee shall be deemed to be invalid merely on the ground of a mistake therein as to the name or surname of the person liable or the description of the status in which he is chargeable to tax or as to the description of any profits or property or year or years or to the amount of tax charged."

71. Amendment of the Schedule, Act XI of 1922.—In the Schedule to the principal Act,—

(a) for the words "Superintendent of Insurance", wherever they occur, the words "Controller of Insurance" shall be substituted;

(b) in rule 2,—

(i) in clause (b), for the words "actuarial valuation made for the last inter-valuation period" the words "actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period" shall be substituted;

(ii) in clause (d) of the proviso, for the figures "12" the figures "15" shall be substituted;

(c) in clause (a) of rule 3, for the words "one-half" the words "two-thirds" shall be substituted, and in the second proviso for the words "one-half of such amount" the words and brackets "that proportion of such amount (one-half or two-third, as the case may be)" shall be substituted;

(d) for rule 8, the following rule shall be substituted, namely:—

"8. The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from the taxable territories bears to his total premium income.

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories."

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to give effect to such recommendations of the Income-tax Investigation Commission as have been accepted by Government. In addition, the Bill includes—

- (a) certain amendments which were originally included in the Taxation Laws Amendment Bill which was introduced in the Budget Session of 1949 but was withdrawn with a view to its provisions being included in a comprehensive Bill which was then under contemplation;
- (b) provisions for exempting foreign profits of non-residents when remitted to India within the first two years of their becoming resident in India, so as to enable such persons to bring in their savings to India without any tax liability;
- (c) provisions for the granting of full relief up to the limit of the Indian tax in respect of foreign income-tax paid by residents of India on income which does not arise and cannot be deemed to arise in India—a provision which would encourage Indian Nationals to open branches in foreign countries without being subjected to double taxation;
- (d) such other amendments as the experience of the working of the Act has indicated to be necessary or desirable. Some of these amendments give relief to assesseees, while others are intended to facilitate collection of tax and to close up loop-holes of evasion.

2. The notes on clauses explain the object underlying each of the important amendments undertaken.

C. D. DESHMUKH.

NEW DELHI;

The 2nd June, 1951.

Notes on Clauses.

[The references to Recommendations are to the Serial No. of the recommendations of the Income-tax Investigation Commission given in the Summary on pages 203 to 244 of the Report.]

Clause 2 amends the definitions in section 2. The important amendments are—

Sub-clause (c)(iii) implements recommendation No. 35. It seeks to check evasion of super-tax by shareholders of private companies by drawing the profits as loans instead of as dividends.

Sub-clause (d).—The definition of income has been redrafted for the sake of clarity. Sub-clause (iv) of the definition gives effect to recommendation No. 68. The premium received in connection with a lease will be treated as the income of the lessor where the period of lease does not exceed 50 years. The premium would be assessed proportionately over the period of the lease, but where the lease exceeds 20 years, the premium will be spread over 20 years, and assessed. Sub-clause (v) of the definition treats as income compensation received on the termination of a managing agency.

Sub-clause (f) implements recommendation No. 159 and is merely clarificatory.

Sub-clause (h) gives effect to recommendation No. 81 and will enable the Income-tax Officer to give credit for the tax on dividends to the person in whose total income the dividend is included.

Clause 3 amends section 4 of the Income-tax Act.

Sub-clause (a)(i) implements the concession announced by Government in 1950 to exempt from tax foreign profits of non-residents which are brought into India within the first two years of their becoming residents of India. The omission of the original second proviso is consequential to the abolition of the category of persons 'not ordinarily resident'. See also clause 5 and recommendations Nos. 2 and 25.

Sub-clause (a)(ii) has the effect of bringing under charge all Government salaries irrespective of the place of payment.

Sub-clause (a)(iii) inserts an explanation which makes it clear that in the case of certain categories of transactions, where the primary source of income is in India, income actually accrues or arises in India.

Sub-clause (b)(i) implements recommendations Nos. 52—54 regarding religious and charitable trusts.

Sub-clause (b)(ii) is intended to check a form of evasion resorted to by employers and employees by describing a part of the remuneration as an allowance to meet expenses to be incurred in connection with the employment. The amendment limits the exemption to actual expenditure incurred by the employee, and brings the law into line with the law in U.K.

Sub-clause (b)(iii) clarifies that the income of private religious endowments is not exempt.

Sub-clause (b)(iv) inserts four new exemption clauses.

Clause 4 implements recommendations Nos. 162 and 163 and is clarificatory in nature.

Clause 5 gives effect to recommendations Nos. 2 and 25 and abolishes the category of 'not ordinarily resident' persons. [See notes under clause 3, sub-clause (a)(i).]

Clause 6 statutorily recognises as income-tax authorities Directors of Inspection and Inspectors of Income-tax, who are already performing important functions in execution of the Act.

Sub-clause (g) implements recommendations Nos. 145—147, by accord-
ng statutory recognition to the giving of advice and guidance to the Income-
tax Officer in important cases by the Director of Inspection, Commissioner
or the Inspecting Assistant Commissioner. It also gives these authorities
the same powers which an Income-tax Officer has in relation to the making
of an assessment.

Clause 7 amends section 5A and removes the statutory bar to the appoint-
ment of an Accountant Member as President of the Tribunal, incidentally
enhancing the qualifications of Members of the Tribunal.

Clause 8.—Sub-clause (i) amends section 7 relating to assessment of salaries. The amendment makes it clear that the word "perquisites" includes the value of any benefits in kind granted to an employee by the employers such as free meals, free domestic services and such other supplies and facilities. A number of business concerns have facilitated tax evasion by their higher paid employee. The cash salary of the employees, which was subjected to tax, was shown at a low figure and the employees were compensated by a number of amenities provided in "kind". U.K. had to make a similar provision in their law to meet this evasion.

Sub-clause (ii) exempts the death-cum-retirement gratuity payable under the new pension rules, and also gives effect to recommendation No. 71 by withdrawing the exemption granted to payments made from an approved superannuation fund, in lieu or in commutation of an annuity, or on the employee leaving the employment, as the exemption of such payments has been used as a method of legal avoidance.

Sub-clause (iii).—This amendment is consequential to clause 3(a)(ii).

Clause 9 amends section 8 which deals with income chargeable under the head "interest on securities". The amendment places interest on debentures issued by a co-operative society on the same footing as interest on debentures issued by a company, as there is no difference between the two kinds of interest, either in regard to their character or as regards their chargeability.

Sub-clause (ii).—Interest on public loans issued outside India prior to 1st April, 1938, is admissible as a deduction in computing the income under this head. It is proposed to continue the concession by executive notification where similar or equivalent concessions are offered by the Government of another country as *quid pro quo*.

Clause 10 amends section 9 which deals with income chargeable under the head "Property".

The amendments are consequential to the amendments of section 14 and section 2(6C) of the Income-tax Act in pursuance of recommendations Nos. 21—23 (see notes to clause 15) and recommendation No. 68 [see notes to clause 2, sub-clause (d)] respectively. The amendment also clarifies that in computing the annual value of property occupied by the owner, the benefit of deduction of municipal taxes is to be given to the same extent as in the case of property let to a tenant.

Clause 11.—Sub-clause (I)(i) allows as a deduction in the payer's hands that portion of the premium which is assessable in the payee's hands [see recommendation No. 68 and notes to sub-clause (d) of clause 2].

Sub-clause (I)(ii)(a).—See notes under sub-clause (ii) of clause 9.

Sub-clause (I)(ii)(b).—It is found that assessees (particularly private companies) sometimes use their own available capital in unbusiness-like activities and borrow money for the purposes of the business and claim the interest paid thereon as a deduction. The amendment seeks to disallow such interest.

Sub-clause (I)(iii) is intended to guard against possibility of such depreciation allowance being carried forward in the assessments of a registered firm as has been set off against the income of the partners of the firm.

Sub-clause (I)(iv) implements recommendation No. 165 and provides for the allowance admissible under section 10(2)(vii) being given in the case of furniture as well.

- An explanation has been added to section 10(2)(vii) to make it clear that a sale includes exchange and compulsory acquisition of property.

- *Sub-clause (I)(v)* gives effect to recommendation No. 166 and clarifies that the Income-tax Officer may disallow that part of the bonus, etc., which is unreasonable or unjustified.

Sub-clause (I)(vi) gives effect to the second part of recommendation No. 166 and makes it clear that expenditure which would not be admissible under clauses (i) to (xiv) of sub-section (2) of section 10, would not be admissible under the omnibus clause (xv).

Sub-clause (2)(ii) gives effect to recommendation No. 19.

Sub-clause (3) provides for the computation of the written down value, where business assets are acquired by gift or inheritance. The explanation inserted by the clause will ensure that the depreciation allowance is computed only on the actual cost of the asset borne by the assessee.

Sub-clause (4) makes it clear that an incorporated association which is a separate entity from its members, is liable to tax on any receipts from its members.

Sub-clause (5) implements recommendation No. 41 and also provides against the same item of expenditure being allowed twice in computing the assessable income.

Clause 12.—Sub-clause (i)—see notes under sub-clause (ii) of clause 9.

Sub-clause (ii)—see notes to clause 11, sub-clause (1)(i).

Sub-clause (iii) implements recommendation No. 41.

Clause 13 inserts a new section 12AA relating to the assessment of income from royalties or copyrights for literary or artistic work.

The section is intended to give some relief to authors, painters, etc., in respect of their income from works on which they have spent more than 12 months or more than 24 months by providing for such income being spread over 2 years or 3 years respectively.

Clause 14 implements recommendation No. 69 and also makes a similar provision regarding trading debts or losses recovered in subsequent years.

Clause 15 gives effect to recommendations Nos. 21 and 22 and makes it clear that in the case of a member of a family, only that maintenance allowance is exempt which is out of the income of the family. It also makes an amendment necessitated by federal financial integration.

Clause 16 restricts the exemption given in respect of life insurance premiums to premiums paid for securing a capital sum on death and also makes an amendment consequent to the amendment of section 7 of the Act (*see clause 8*).

Clause 17 amends section 15C so as to allow the benefit of exemption to industrial undertakings which commence production before the 31st March, 1954. It also extends the exemption to smaller industries which employ 25 persons or more. The period of exemption has also been extended so that each undertaking which is entitled to exemption gets it for five assessment years.

Clause 18 amends section 16 dealing with inclusions and exclusions in computing the total income.

Sub-clause (a)(i) gives effect to recommendation No. 168 in a modified form and provides for the income exempt from tax under sections 25(3) and 25(4) being taken into account for the purpose of computing the rate of income-tax payable.

Sub-clause (a) (ii) allows in computing the income of a partner, deduction of interest on the capital borrowed by him for investment in the firm and salary paid by him to an employee engaged to assist him in the business of the firm.

Sub-clause (a)(iii) seeks to close up a loophole of evasion by providing for the property settled and all the transactions connected therewith, being treated as the property or transactions of the settler.

Sub-clause (c) gives effect to recommendations Nos. 77 and 78 and also makes it clear that section 16(3) applies to the husband or the wife as the case may be.

Clause 19 amends section 18 relating to deduction of tax at source.

Sub-clauses (a) to (e), (g) and (h) are consequential to the amendment of section 17(1) of the Income-tax Act by the Indian Finance Act, 1951.

Sub-clause (c) also relieves the hardship caused by requiring deduction of tax from the entire amount paid to a non-resident, when only a portion thereof may be liable to tax in the hands of the non-resident as "income".

Sub-clause (f) gives effect to recommendation No. 81 by adding a proviso to section 18(5) and also secures that credit for tax is given only where the tax has been credited to Government account.

Sub-clause (i) makes the private employer himself or in the case of a company or co-operative society, the company or society itself and its principal officers responsible for the deduction of tax and for any consequences of non-deduction. This is necessary to safeguard Government revenue.

Clause 20.—*Sub-clauses (a) and (b)* are consequential to the variation of the taxable minimum.

Sub-clause (c) enables the Income-tax Officer to call for a statement of assessee's current year's income and his accounts if he has reasons to believe that the tax which the assessee has been required to pay or has offered to pay is less than the tax which he ought to pay.

Clause 21.—A new section 20B is inserted in order to ensure the super-tax payable on interest on securities and dividends is not evaded. If a person who draws the interest or dividend claims that he is drawing it on behalf of another person, he is required to disclose the particulars of the persons on whose behalf he is drawing the interest.

Clause 22.—The amendment made by this clause is consequential to the amendment of section 7 of the Income-tax Act [see notes to sub-clause (i) of clause 8].

Clause 23 amends section 22 relating to the submission of return of total income and accounts.

Sub-clauses (a) and (b) implement recommendation No. 87.

Sub-clause (c) requires a person who has sustained a loss, which can be carried forward to subsequent years to make a return of that loss, within the period prescribed under section 22(1). It is necessary to ascertain the quantum of loss in the year in which it is incurred and not in a later year in which it can be set off, as by that time the evidence for proving the loss may not be available. This sub-clause also implements recommendation No. 95 by requiring that the return of income filed by an assessee liable to super-tax should be accompanied by audited statements.

Sub-clause (d) gives effect to a part of recommendation No. 93. It also empowers the Income-tax Officer to call for information which is in the possession of the assessee and which the Income-tax Officer considers material for the purposes of the assessment.

Clause 24 amends section 23 relating to procedure for assessment.

Sub-clause (b) inserts a new sub-section to make it clear that the onus of proving the correctness of his return is on the assessee.

Clause 25 amends section 23A dealing with the compulsory distribution of dividends in the case of private companies.

Sub-clause (a) gives effect to recommendations Nos. 30 to 33 and provides that in determining the amount available for distribution, there shall be deducted obligatory charges, which may not have been allowed in computing the assessable income of the company and amounts transferred to reserves by a Banking company under section 17 of the Banking Companies Act. Private investment trust companies would be required to distribute 100 per cent. of their profits. The sub-clause also brings the definition of a company, in which the public are substantially interested into line with that adopted in the Finance Acts since 1949. In a genuine public company more than 50 per cent. of the voting power must be with the public. Non-resident companies are not affected by this amendment, as section 23A is not applicable to them.

Sub-clause (c) gives effect to recommendation No. 85.

Clause 26 amends section 24 relating to the set off of losses in computing the total income.

Sub-clause (a), besides making a clarificatory amendment, inserts a new proviso, which secures that speculation losses would be set off against speculation profits only and not against any other income. This would check a tendency on the part of assessees to claim speculation losses but not to admit speculation profits.

Sub-clause (b)(iii) implements the principle underlying recommendation No. 7 regarding foreign losses of companies treated as resident. It also provides for the allocation of the loss carried forward from one year to another between the various businesses to which the loss pertains. This latter provision is, in essence, clarificatory.

Sub-clause (c) treats life insurance business and speculation business as distinct and separate businesses for the purposes of the Act and also defines a speculative transaction.

Clause 27 makes a clarificatory amendment giving effect to recommendation No. 12.

Clause 28 amends section 25 of the Act.

Sub-clause (d) provides for the benefit of sub-sections (3) and (4) of section 25 of the Act being given only to a person who has given notice of the discontinuance or succession within one year thereof.

The other sub-clauses are merely clarificatory in nature.

Clause 29 gives effect to recommendation No. 85 [*see also clause 25(c)*] by inserting a new section 25B dealing with the liability of liquidators. The clause safeguards the interests of revenue by requiring the liquidator to pay the amount notified by the Income-tax Officer as the tax payable presently or in future by the company.

Clause 30 enables the registration already granted to a firm being cancelled if it is found that the particulars furnished in the application for registration are incorrect. It also enables the assessment in such cases being made on the basis of an unregistered firms subject to the provisions of sections 33B and 34.

Clause 31 deletes section 27 of the Act as it serves no useful purpose since an appeal has already been provided against an *ex parte* assessment and the assessee can obtain all the relief he requires including the setting aside of the assessment, in that appeal.

Clause 32 amends section 28 relating to imposition of penalties and gives effect to recommendations Nos. 103 to 114 and 116. The clause recognises the degree of delinquency involved in the various defaults and concealments by providing a different penalty for different types of default or concealment. The clause further provides for the imposition of a penalty on a person, who abets the commission of any default or concealment. The clause also enables the publication of the names and the particulars of persons on whom a penalty is imposed.

Clause 33 amends section 30 relating to appeals.

Sub-clause (a) redrafts sub-section (1) for the sake of clarity. The sub-section as re-drafted—

(i) gives effect to recommendation No. 123 by providing an appeal against the Income-tax Officer's order under section 35;

(ii) implements recommendation No. 127 and extends the principle underlying this recommendation to appeals by residents;

(iii) secures that an appeal against an order passed by an Inspecting Assistant Commissioner, when exercising the powers of an Income-tax Officer does not lie to the Appellate Assistant Commissioner. (Provision has been made elsewhere for a direct appeal to the Tribunal); and

(iv)* provides for concurrence of all the partners of a firm as a condition precedent to an appeal preferred by an individual partner against the quantum of the firm's income or the allocation thereof between the partners.

Sub-clause (b) makes only a consequential amendment.

Clause 34.—*Sub-clause (a)* adds a condition precedent to the admission of additional grounds of appeal.

Sub-clause (b) gives effect to recommendation No. 129 and incorporates the principle regarding admission of fresh evidence contained in rules 27 and 28 of Order XLI of the Code of Civil Procedure.

Sub-clause (c) makes a clarificatory redraft.

Sub-clause (d) requires the Appellate Assistant Commissioner to state in his order precisely the relief granted and its effect on the assessment or on the orders appealed against (*cf.* rule 35 of Order XLI, Code of Civil Procedure).

Clause 35.—*Sub-clause (a)* provides for an appeal to the Appellate Tribunal against an order under section 28 passed by the Inspecting Assistant Commissioner or the Commissioner and against an order of assessment passed by an Inspecting Assistant Commissioner exercising the powers of an Income-tax Officer [*see notes to clause 33, sub-clause (a)*].

Sub-clause (c) gives effect to recommendation No. 156 regarding filing of cross objections.

Sub-clause (d).—The power to condone delay in the case of appeals against orders passed by an Inspecting Assistant Commissioner, exercising the powers of an Income-tax Officer is excluded.

Sub-clause (e) secures that the Tribunal will serve a copy of its order on the parties and that the provisions of section 31 regarding the admission of fresh evidence, manner of disposal of appeals and clear specification of the relief granted, will apply to the orders passed by the Tribunal.

Clause 36 makes it clear that the time limit for completion of assessments would not apply to an assessment or re-assessment found necessary in consequence of an appellate, revision or High Court or Supreme Court order.

Clause 37 secures that changes necessary in the assessments of partners consequent on the relief given to a firm on appeal, reference or revision, or changes necessary in the assessment of a person liable to excess profits tax or business profits tax consequent on the modification of such assessments, can be made under section 35.

Clause 38.—Section 37 of the Act is amended—

- (i) to give power to all Income-tax authorities (including Inspectors) to take evidence on oath, etc.,
- (ii) to permit all the powers given by this section being exercised for all the purposes of the Act and not merely in connection with a particular assessment,

- (iii) to enable the Income-tax authorities to impound books of account produced before them, and
- (iv) to give power to the Income-tax authorities and the Tribunal to deal with cases of "contempt" under the relevant provisions of the Criminal Procedure Code.

The clause also implements recommendations Nos. 93 and 141 and gives powers of search and seizure to Income-tax authorities in the lines of section 6(9) of the Taxation on Income (Investigation Commission) Act, 1947.

Clause 39 gives effect to recommendation No. 56 and the latter part of recommendation No. 82. The clause also provides for certain kinds of information being called for and for proper verification of statements furnished under this section.

Clause 40.—*Sub-clause (i)* provides for the assessment of the income of a private religious trust or endowment in the hands of the manager or *shebait* and is clarificatory. [See notes to clause 3(b)(iv).]

Sub-clause (ii) redrafts the first proviso to section 41 to make it clear that the maximum rate of income-tax is applicable to income receivable on behalf of an artificial or juridical person such as a deity, and to income which is not specifically receivable on behalf of any individual, that is, income applied to the maintenance of buildings, monuments, etc.

Clause 41 amends section 42 dealing with income deemed to accrue or arise in India.

Sub-clause (a) makes a few changes consequential to the amendment of section 4 by clause 3(a)(iii) and also gives effect to a part of recommendation No. 6 by clarifying that the agent is the statutory agent appointed under section 43 and that all the chargeable income of the non-resident can be assessed in his hands.

Sub-clause (b) gives effect to another part of recommendation No. 6 and empowers the Income-tax Officer to freeze, in advance of assessment, the assets of the non-resident in the hands of persons other than the statutory agent.

Sub-clause (c) redrafts sub-section (2) and omits reference to the category of "not ordinarily resident" persons. [See notes to clause 3(a)(i) and clause 5.]

Sub-clause (d) will enable the Central Board of Revenue to prescribe by rules the proportion of profits that will be deemed to accrue or arise in India according to the extent of operations carried out in India. The non-resident can thus readily ascertain the extent of his liability to tax.

Clause 42 gives effect to the principle of recommendation No. 28 and enables the tax due from any company being realised from its subsidiaries. In the case of a privately controlled company, provision has been made to realise the tax from its shareholders as well.

Clause 43 redrafts Chapter V-A so as to extend the procedure for assessment of profits and recovery of tax laid down in that Chapter with respect to tramp steamers, to aircraft operated by non-resident air transport concerns which have no regular offices or agencies in India. At

present the tax due on the earnings of such aircraft is escaping tax. The assessment in the case of aircraft will be made by Customs officers instead of by Income-tax Officers as in the case of tramp steamers. The profits will be assumed provisionally to be 1/16th of the fare and freight earned by the aircraft, but the person concerned can claim that a regular assessment may be made on him in any assessment year, in which case necessary adjustments will be made.

Clause 44 makes certain amendments in section 44-D which are consequential to the abolition of the category of "not ordinarily resident" persons. [See notes to clause 3(a)(i) and clause 5.]

Clause 45.—The Income-tax Investigation Commission found that influential persons held a large number of shares in several companies in fictitious names. While thus in virtual possession of the shares they are enabled to conceal their income and do not pay any tax on the income from the shares. A similar evasion is also practised by making deposits and loans in the names of fictitious persons. The proposed new section 44G will provide for the transfer of the shares, debentures, deposits, etc., to the Government, only after the taking of adequate steps in the matter, it is not possible to discover the true owner. Necessary safeguards are provided to enable the true owner to establish his claim, including safeguards by way of appeal, reference to a High Court, etc.

Clause 46 inserts a new section 45-A providing (in pursuance of a separate recommendation of the Commission *re. benami transactions*) for the recovery of tax from the ostensible or legal owner of assets, where the income from those assets or from dealings in those assets is included in the income of any person other than the ostensible owner. The liability of the legal owner is, of course, limited to the tax on the income from such assets. Notice of the assessment to the ostensible owner is a condition precedent to the recovery of tax from the assets.

Clause 47 amends section 46 relating to the mode and time of recovery of tax.

Sub-clause (a) enables the Income-tax Officer to publish the names and addresses of persons on whom penalties have been imposed for non-payment of tax.

Sub-clause (b) inserts a new sub-section (1B) enabling the tax assessed on a person and remaining unpaid being recovered from his legal representative, but the liability of the legal representative will be limited to the assets of the deceased in his hands.

Sub-clause (c) redrafts sub-section (5A) to enable the Income-tax Officer to investigate any objection raised to the attachment of a debt. The decision of the Income-tax Officer would be open to challenge in a court, but until the attachment is raised or modified either by the Income-tax Officer or by the court, it will remain effective.

Sub-clause (d) inserts a new sub-section (5B) empowering the Income-tax Officer to attach by a notice the assets of a defaulting assessee where the assets are placed for safe custody in the hands of another person, for example, a banking company.

Sub-clause (e) clarifies that the limitation of one year prescribed by sub-section (7) does not apply to the commencement of each mode of recovery prescribed by this section but only to the action taken in the first instance.

Clause 48 inserts a new section 46A which requires any person, who is not domiciled in India, or who, even if domiciled in India, has, in the opinion of an Income-tax authority, no intention of returning to India, to obtain a tax clearance certificate before leaving India. The provision is intended primarily to safeguard the interests of revenue. The Income-tax enactments of America, Australia, Ceylon, Pakistan and Iran contain similar provisions.

Clause 49 implements the concession announced by the Government of India in 1950, by amending section 49D, which deals with relief in respect of tax charged in a country with which there are no reciprocal arrangements for double taxation relief or any agreement for avoidance of double taxation. Under the amended section full credit (as opposed to credit for half the tax given under the present law) will be given for the foreign tax, upto the limit of the Indian tax, in respect of income doubly taxed, which does not arise and cannot be deemed to arise in India. Power is being taken to apply this relief, by notification, retrospectively to income arising in the United Kingdom, if the negotiations with that country for double taxation avoidance do not reach any satisfactory conclusion.

Clause 50 amends section 49E and enables the Income-tax Officer to set off the refund due to an assessee against any interest or penalty due by the assessee.

Clause 51 redrafts section 51. Clause (d) of the new section 51, implements recommendation No. 88 by making the wilful failure to make a voluntary return by persons whose income exceeds the taxable minimum by two thousand rupees punishable under this section. Clause (f) is consequential to clause 29. This section also provides for the imposition of a sentence of imprisonment in addition to fine.

Clause 52 redrafts section 52 and prescribes more deterrent punishment for a false verification in the returns and statements required to be furnished under the Act.

Clause 53 inserts a new section 52A providing for the punishment of abetment of offences under section 51 or 52.

Clause 54 amends section 53 of the Act relating to prosecution and provides for prosecution being launched at the instance of the Appellate Tribunal or an Income-tax authority not below the rank of an Assistant Commissioner. The clause also provides that the offence cannot be compounded after the prosecution has been instituted.

Clause 55 amends section 54 to give effect to recommendations Nos. 117 to 119. The amended section 54 permits the disclosure of information in an assessee's record where it is necessary to do so either to verify the correctness of the assessee's statement or to enable proper legal or other proceedings being taken against him or any other person in certain cases.

The clause also implements recommendations Nos. 114 and 192 by permitting the disclosure of the particulars of persons, who have been penalized under the Act or have been guilty of evasion of tax, to the public and to other Government Departments. The disclosure to other Government Departments is with a view to prevent Government patronage being conferred on them.

Clause 56 gives effect to recommendation No. 75 by amending section C. The amended section 58C relaxes the conditions for recognition provident funds and permits such funds to retain the accumulated balance due to an employee till it is actually required by the employee.

Clause 57 gives effect to recommendations Nos. 70 and 71 by amending section 58P and gives power to the Central Government to prescribe by law the conditions to be fulfilled by recognised superannuation funds. Similar power exists in regard to recognised provident funds. The clause also inserts a new sub-section under which any rules of a recognised fund, which are repugnant to the provisions of the Act, will be of no effect.

Clause 58.—Sub-clause (a) gives effect to recommendation No. 71 by amending section 58S. The amended section makes the contributions to recognised superannuation fund liable to tax when they are paid out of the employee.

Sub-clause (b) adds a new sub-section providing for deduction of tax on the lump sum paid to an employee in commutation of an annuity at reduced rate.

Clause 59 gives effect to recommendations Nos. 70 and 72 and inserts a new section 58W which corresponds to section 58L of the Act pertaining to provident funds and empowers the Central Government to make rules.

Clause 60 amends section 59 of the Act.

Sub-clause (i) is consequential to the deletion of section 49 from the Act and the insertion of section 49AA.

Sub-clause (ii) inserts a new clause, which enables the Central Board of Revenue to make rules in respect of the grant of rewards to informers. The Income-tax Investigation Commission has, subsequent to the making of their report, recommended that the system of grant of rewards to informers may be tried, as it has been found successful in other countries.

Clause 61 inserts a new section 59A empowering the Central Government to tender immunity from prosecution to accomplices who are prepared to give evidence against an assessee. The new section corresponds to sections 6A and 6B of the Taxation on Income (Investigation Commission) Act, 1947.

Clause 62 amends section 61 relating to appearance by an authorised representative before Income-tax authorities, and the Appellate Tribunal. The amended section gives effect to recommendation No. 115 by providing for all income-tax practitioners being enrolled on registers maintained by the Commissioners of Income-tax and by requiring them to conform to a code of conduct and discipline to be prescribed by rules made by the Central Board of Revenue.

Sub-clause (a)(i) amends the definition of 'lawyer' to exclude persons who are not entitled to appear in a civil or a criminal court.

Sub-clause (d) redrafts sub-section (3) for the sake of clarity and also disentitles certain categories of persons from appearing before Income-tax authorities.

Clause 63 amends section 63 relating to service of notices.

Sub-clause (a) provides for rules being made by the Central Board of Revenue in regard to service of notices. The intention is to adapt the modes of service prescribed by the Code of Civil Procedure to suit the requirements of the Income-tax Act.

Sub-clause (b) redrafts sub-section (2) and specifies clearly the individual to whom notices under the Act may be addressed. The sub-clause also gives effect to recommendation No. 169 in regard to service of notice in the case of a disrupted Hindu undivided family.

Clause 64 amends section 64 to make it clear that in the case of discontinued business, profession or vocation, assessment may be made by the Income-tax Officer in whose jurisdiction the principal place of business was situate.

Clause 65 amends and redrafts section 66 of the Act relating to references to a High Court in regard to questions of law arising out of the order of the Tribunal. The amended section 66 makes the following changes in the existing law :—

- (1) A separate fee of Rs. 100 is to be paid in respect of each appeal notwithstanding that a common order has been passed by the Tribunal in respect of several appeals.
- (2) The reference to the High Court should be made by the Tribunal within 180 days of the receipt of the application by the Tribunal (recommendation No. 157 in a modified form).
- (3) The Appellate Tribunal is given the power to condone the delay in the presentation of an application upto a limit of 15 days (recommendation No. 158 in a modified form).
- (4) The Appellate Tribunal is empowered to make a direct reference to the Supreme Court where the question of law is important or where there is a conflict between two High Courts in regard to the question of law sought to be referred (recommendation No. 153).
- (5) The jurisdiction in income-tax matters is confined to the seven of High Courts.

Clause 66 amends section 66A to secure that whenever the Judges hearing a reference are equally divided on a question it should be referred to one or more Judges and decided according to the decision of a majority of all the Judges who have heard the reference.

Clause 67 amends section 67 of the Act to provide that suits or other proceedings in any court are barred even where the suit or proceeding is to prevent the commencement or progress of any assessment under the Act. The amendment is necessitated by certain observations of the Supreme Court in the case of the *State of Tripura vs. the Province of East Bengal*, 1951, *Income-tax Reports*, page 132.

Clause 68 amends section 67A and secures that the time requisite for obtaining a copy of the order is to be taken into account in computing the limitation only where a copy of the order is not served on the assessee under the provisions of the Act.

Clause 69 amends section 67B and provides for the provisional collection of income-tax on the basis of the rates prescribed by the Finance Bill. It would be administratively inconvenient if provisional assessments to income-tax have to be made by making laborious alternative calculations.

Clause 70 inserts a new section 67C, which provides that formal mistakes do not result in the whole assessment or proceedings being quashed on that ground alone.

Clause 71 amends the Schedule to the Act containing the rules for the computation of the profits and gains of insurance business.

Sub-clause (b)(i) clarifies that the valuation which is to form the basis of the computation is the valuation which is required to be furnished to the Controller of Insurance under the Insurance Act.

Sub-clause (b)(ii) implements recommendation No. 46 and permits an increased allowance on account of management expenses—15 per cent. of renewal premiums against 12 per cent. at present allowed.

Sub-clause (c) implements recommendation No. 44 to the extent practicable by providing for a deduction of two-thirds of the bonus paid to policy-holders as against half the bonus at present deducted.

Sub-clause (d) is, in essence, clarificatory. It provides for the applicability of rule 8 to all non-residents carrying on insurance business (not merely to companies as at present) and to both the methods of computation mentioned in rule 2.

M. N. KAUL, Secy.

Registered No. C207

The

Calcutta Gazette

THURSDAY, FEBRUARY 21, 1952

PART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 7th August, 1951:—

BILL No. 61 OF 1951.

A Bill further to amend the Indian Railways Act, 1890.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Railways (Amendment) Act, 1951.

2. Substitution of new section for section 108, Act IX of 1890.—For section 108 of the Indian Railways Act, 1890 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

“108. *Needlessly interfering with means of communication in a train.*

—(1) No passenger shall make use of the alarm chain or other device provided in a train for stopping it in an emergency, except when there is reasonable apprehension of danger to human life or of grave bodily harm to any person.

(2) If any passenger contravenes the provisions of sub-section (1), he shall be punished with fine which may extend to one hundred rupees.”

3. Amendment of section 118, Act IX of 1890.—In sub-section (2) of section 118 of the principal Act, for the words “If a passenger, after being warned by a railway servant to desist, persists in travelling”, the words “If a person, other than a railway servant, travels” shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to prevent indiscriminate and frivolous pulling of alarm chains in passenger trains (section 108) and to enforce prohibition of dangerous travelling by passengers on footboards, roof tops or in other unauthorised places [section 118(2)].

The necessity for the amendment to section 108 arises from the fact that alarm chains are often pulled for trivial reasons thereby upsetting train working and the existing provisions of the section are not sufficiently precise to indicate the circumstances in which the pulling of an alarm chain may be considered reasonable.

As for section 118(2), the existing provision, which requires that before a passenger travelling in an unauthorised place can be proceeded against he must first be formally warned by a railway servant, has, in practice, been found to be unworkable.

K. SANTHANAM.

NEW DELHI;

The 21st July, 1951.

M. N. KAUL, Secy.

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 26th September, 1951:—

BILL No. 78 OF 1951.

A Bill further to amend the Bombay Coasting-vessels Act, 1838.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Bombay Coasting-vessels (Amendment) Act, 1951.

2. Substitution of certain words for the words "Master-Attendant" in Act XIX of 1838.—Throughout the Bombay Coasting-vessels Act, 1838 (hereinafter referred to as the principal Act), for the words "Master-Attendant", wherever they occur, the words "Principal Officer, Mercantile Marine Department" shall be substituted.

3. Amendment of short title, Act XIX of 1838.—In the short title of the principal Act, the word "Bombay" shall be omitted.

4. Insertion of new section 1 in Act XIX of 1838.—The following section shall be inserted as section 1 of the principal Act, namely:—

"**1. Extent.**—This Act extends in the first instance to the States of Bombay, Saurashtra and Kutch, but the Central Government may, by notification in the Official Gazette, extend it to any other State which has a sea-coast."

5. Amendment of section 2, Act XIX of 1838.—In section 2 of the principal Act,—

(a) the words "residing within the State of Bombay" shall be omitted; and

(b) for the words "the said State" "the words any State to which this Act extends" shall be substituted.

6. Amendment of sections 4, 12 and 13, Act XIX of 1838.—In the second paragraph of section 4 and in sections 12 and 13 of the principal Act, the words "within the said State" shall be omitted.

7. Amendment of section 6, Act XIX of 1838.—In section 6 of the principal Act, the words "within the State of Bombay" shall be omitted.

8. Substitution of new section for section 10 in Act XIX of 1838.—For section 10 of the principal Act, the following section shall be substituted, namely:—

"10. Fees for certificates.—The owner or owners of such vessels employed as aforesaid (fishing-vessels and harbour-craft being excepted) on being registered as aforesaid, shall pay—

for each certificate of registry for a vessel not exceeding 5 tons burthen, the fee of ... 1 rupee;

for each certificate for a vessel exceeding 5 tons burthen and not exceeding 25 tons burthen, the fee of ... 5 rupees;

for each certificate for a vessel exceeding 25 tons burthen and not exceeding 100 tons burthen, the fee of ... 7 rupees;

and for each certificate for a vessel of 100 tons or greater burthen, per ton, the fee of ... 2 annas."

9. Amendment of the Schedule, Act XIX of 1838.—In the Schedule to the principal Act, for the words "Bombay *khandis*" the word "tons" shall be substituted.

10. Repeal and saving.—If immediately before the commencement of this Act there is in force in the State of Kutch, any law corresponding to the principal Act, that law shall, on such commencement, stand repealed:

Provided that notwithstanding such repeal, anything done or any action taken (including any certificate of registration issued) in the exercise of any power conferred by or under such corresponding law, shall be deemed to have been issued, done or taken in the exercise of the powers conferred by or under the principal Act, as amended by this Act, as if the principal Act as so amended was in force in the said State on the day on which any such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

Indian ships are at the present moment registered under the British Merchant Shipping Act, 1894, which applies to India as a part of its law, and there are no provisions in the Indian Merchant Shipping Act, 1923, for the registration of ships. There is no law for the registration of small sailing vessels to which, on account of their design and structure, it is impracticable to apply the elaborate provisions of the British Act except in Bombay where the Bombay Coasting-vessels Act, 1838, applies. The object of the present Bill is to extend this Act to Saurashtra immediately and at the same time to provide for the extension of this Act to other maritime States as and when necessary. This Act has already been applied to Kutch under the Kutch (Application of Laws) Order, 1949.

Consequent on the merger of the former State of Baroda in the Bombay State it has to be made clear that the Bombay Coasting-vessels Act also applies to the merged State, and this is one of the things sought to be done by the new extent clause proposed to be introduced into the Act by clause 4 of the Bill.

Opportunity has been taken to make a few minor amendments in the Bill, as, for example, the substitution of "Principal Officer, Mercantile Marine Department" for "Master-Attendant", a term which ceased to be in use long ago. In the proposed section 10 (*see* clause 8), references to Bombay *khandis* are being substituted by a more commonly understood measure of weight.

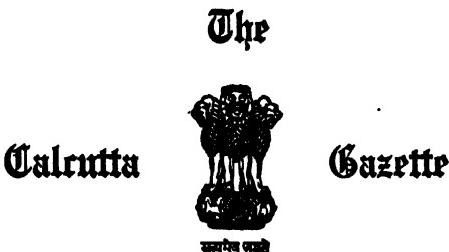
K. SANTHANAM.

NEW DELHI;

The 14th September, 1951.

M. N. KAUL, Secy.

Registered No. C207



Calcutta

Gazette

THURSDAY, MARCH 20, 1952

PART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

PARLIAMENT OF INDIA.

NOTIFICATION.

New Delhi, the 21st January, 1952.

No. F. 111-L/52.—Under rule 55 of the Rules of Procedure and Conduct of Business in Parliament, the Speaker has been pleased to order the publication in the *Gazette of India* of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information:—

BILL NO. 1 OF 1952.

1. *Bill to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India.*

Be it enacted by Parliament as follows:—

PART I.

PRELIMINARY.

1. **Short title.**—This Act may be called the Presidential and Vice-Presidential Elections Act, 1952.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

- (a) “article” means an article of the Constitution;
- (b) “election” means a presidential election or vice-presidential election;
- (c) “Election Commission” means the Election Commission appointed by the President under article 324;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “presidential election” means an election to fill the office of the President of India;
- (f) “vice-presidential election” means an election to fill the office of the Vice-President of India.

PART II.

CONDUCT OF PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS.

3. Returning Officer and his assistants.—(1) The Central Government shall, in consultation with the Election Commission, appoint an officer of Government to be the Returning Officer for the purposes of each election under this Act and may also appoint one or more Assistant Returning Officers.

(2) Subject to rules made under this Act, every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer.

4. Appointment of dates for nominations, etc.—(1) The Election Commission shall, by notification in the *Official Gazette*, appoint for every election—

(a) the last date for making nominations which shall be a date not later than the fourteenth day and not earlier than the eighth day after the date of publication of the notification under this sub-section;

(b) a date for the scrutiny of nominations which shall be a date not later than the third day after the last date for making nominations;

(c) the last date for the withdrawal of candidatures which shall be the third day after the date for the scrutiny of nominations;

(d) the date or dates on which a poll shall, if necessary, be taken, which, or the first of which, shall be a date not earlier than the tenth day after the last date for the withdrawal of candidatures.

(2) In the case of the first presidential and vice-presidential elections, the notifications under sub-section (1) shall be issued as soon as may be after both Houses of Parliament have been first constituted.

(3) In the case of an election to fill a vacancy caused by the expiration of the term of office of the President or Vice-President, the notification under sub-section (1) shall be issued on, or as soon as conveniently may be after, the sixtieth day before the expiration of the term of office of the outgoing President or Vice-President, as the case may be, and the dates appointed under the said sub-section shall be so selected that the election will be completed at such time as will enable the President or the Vice-President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing President or Vice-President, as the case may be.

(4) In the case of an election to fill a vacancy in the office of President or Vice-President occurring by reason of his death, resignation or removal or otherwise, the notification under sub-section (1) shall be issued as soon as may be after the occurrence of such vacancy.

5. Nomination of candidates.—Any person may be nominated as a candidate for election to the office of President or Vice-President if he is qualified to be elected to that office under the Constitution.

6. Withdrawal of candidature.—(1) Any candidate may withdraw his candidature by a notice in writing in the prescribed form subscribed by him and delivered before three o'clock in the afternoon on the date fixed under clause (c) of sub-section (1) of section 4, to the Returning Officer either by

such candidate in person or by his proposer or seconder who has been authorised in this behalf in writing by such candidate:

Provided that if that day is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881), or has been notified by the Central Government as a day to be observed as a holiday in its offices in New Delhi, the notice of withdrawal of candidature shall be considered as having been delivered in due time if it is delivered before three o'clock in the afternoon on the next succeeding day which is neither such a public holiday nor a day so notified.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

7. Appointment of election agent.—(1) Every person nominated as a candidate at an election shall, if it is so prescribed, appoint either himself or some one other person to be his election agent.

(2) Every such appointment shall be made at such time and in such manner as may be prescribed.

8. Death of candidate before poll.—If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission and also to the Central Government, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll:

Provided further that no person who has under sub-section (1) of section 6 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

9. Procedure in contested and uncontested elections.—If after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 6—

(a) there is only one candidate who has been validly nominated and has not withdrawn his candidature in the manner and within the time specified in that sub-section, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of President or Vice-President, as the case may be;

(b) the number of candidates who have been duly nominated but have not so withdrawn their candidatures exceeds one, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken;

(c) there is no candidate who has been duly nominated and has not so withdrawn his candidature, the Returning Officer shall report the fact to the Election Commission and the Central Government and thereafter all the proceedings in relation to the election shall

be commenced afresh and for that purpose the Election Commission shall cancel the notification issued under sub-section (1) of section 4 in respect of such election and issue another notification under that sub-section appointing the dates referred to in that sub-section for the purposes of such fresh election.

10. Manner of voting at elections.—At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

11. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate and one representative of each candidate authorised in writing by the candidate, shall have a right to be present at the time of counting.

12. Declaration of results.—When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

13. Report of the result.—As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the Central Government and the Election Commission and the Central Government shall cause to be published in the *Official Gazette* the declaration containing the name of the person elected to the office of President or Vice-President, as the case may be.

PART III.

DISPUTES REGARDING ELECTIONS.

14. Definitions.—In this Part and in Part IV, unless the context otherwise requires—

- (a) “agent” includes an election agent and any person who, on the trial of an election petition under this Part or of an offence with respect to an election, is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate;
- (b) “candidate” means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;
- (c) “costs” means all costs, charges and expenses of, or incidental to, a trial of an election petition;
- (d) “electoral right” means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election;
- (e) “returned candidate” means a candidate whose name has been published under section 13 as duly elected.

15. Election petitions.—(1) No election shall be called in question except by an election petition presented to the Supreme Court in accordance with the provisions of this Part and of the rules made by the Supreme Court under article 145.

(2) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 19 and section 20 to the Supreme Court by any candidate at such election or by any person entitled to vote at such election.

(3) Every such petition shall be presented within such time but not earlier than the date of publication of the declaration containing the name of the returned candidate at the election under section 13 as may be prescribed.

16. Form of petitions, etc. and procedure.—Subject to the provisions of this Part, rules made by the Supreme Court under article 145 may regulate the form of election petitions, the manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, and may require security to be given for costs.

17. Relief that may be claimed by the petitioner.—A petitioner may claim either of the following declarations:—

- (a) that the election of the returned candidate is void;
- (b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

18. Orders of the Supreme Court.—(1) At the conclusion of the trial of the election petition, the Supreme Court shall make an order—

- (a) dismissing the election petition; or
- (b) declaring the election of the returned candidate to be void; or
- (c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) At the time of making an order under sub-section (1), the Supreme Court shall also make an order fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

19. Grounds for declaring the election of a returned candidate to be void.—(1) Subject to the provisions of sub-section (2), if the Supreme Court is of opinion—

- (a) that the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt practice; or
- (b) that any corrupt practice referred to in clause (a) of section 22 has been committed by the returned candidate or his agent or by any other person with the connivance of the returned candidate or his agent; or
- (c) that the result of the election has been materially affected by the improper acceptance or rejection of any nomination, or by the improper reception or refusal of a vote or by the reception of any vote which is void, or by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act or of any other Act or rules relating to the election or by any mistake in the use of any prescribed form,

the Supreme Court shall declare the election of the returned candidate to be void.

(2) If, in the opinion of the Supreme Court, the returned candidate has been guilty by an agent other than his election agent, if any, of any corrupt practice referred to in clause (a) of section 22, but the Supreme Court is satisfied—

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent and every such corrupt practice was committed contrary to the orders and without the sanction or connivance of the candidate or his election agent;

- (b) that all such corrupt practices were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election;
- (c) that the candidate and his election agent, if any, took all reasonable means for preventing the commission of corrupt practices at the election; and
- (d) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

then the Supreme Court may decide that the election of the returned candidate is not void.

20. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of opinion—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes; or
- (b) that but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

21. Transmission of orders to the Central Government and its publication.—The Supreme Court shall, after announcing the orders made under section 18, send a copy thereof to the Central Government, and on receipt of such copy the Central Government shall forthwith cause the order to be published in the *Official Gazette*.

PART IV.

CORRUPT PRACTICES AND ELECTORAL OFFENCES.

22. Corrupt practices.—For the purposes of this Act, the practices specified in—

- (a) clauses (1), (2), (3), (5), (7) and (8) of section 123 of the Representation of the People Act, 1951 (XLIII of 1951), and
- (b) clauses (1), (3), (4) and (5) of section 124 of the said Act,

shall be deemed to be corrupt practices, and the said clauses shall, in relation to a presidential election or vice-presidential election, have effect subject to the following modifications, namely:—

- (i) that in the *Explanation* to clause (1) of section 123 for the words and figures “referred to in section 76” the words “if any, prescribed” shall be substituted;
- (ii) that in clause (3) of the said section, for the words “in the same or some other constituency” the words “at the same election” shall be substituted;
- (iii) that from clause (7) of the said section the words “or the employment of any person by a candidate or his agent” shall be omitted;
- (iv) that the *Explanation* to clause (8) of the said section shall be omitted;

- (v) that in clause (1) of section 124 the reference to clauses (1) to (8) of section 123 shall be construed as a reference to clauses (1), (2), (3), (5), (7) and (8) of section 123 as so modified;
- (vi) that any reference to the Representation of the People Act, 1951 (XLIII of 1951), in those clauses shall be construed as a reference to this Act.

23. Electoral offences.—The provisions of sections 128, 129, 134, 136 and 137 of the Representation of the People Act, 1951 (XLIII of 1951), shall apply in relation to a presidential election and a vice-presidential election and to any candidate at either of such elections as they apply in relation to an election to either House of Parliament and to any candidate at such election subject to the following modifications, namely:—

- (a) that any reference to the Representation of the People Act, 1951 (XLIII of 1951), or the Representation of the People Act, 1950 (XLIII of 1950), in those provisions shall be construed as a reference to this Act; and
- (b) that the references to a Regional Commissioner appointed under clause (4) of article 324 and to the Chief Electoral Officer in section 137 shall be omitted.

PART V.

MISCELLANEOUS.

24. Power to make rules.—(1) The Central Government may, after consulting the Election Commission, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the maintenance of a list of members of the electoral college referred to in article 54 with their addresses corrected up to date for the purposes of presidential elections;
- (b) the maintenance of a list of members of both Houses of Parliament with their addresses corrected up to date for the purposes of vice-presidential elections;
- (c) the powers and duties of a Returning Officer and the performance by any officer appointed to assist the Returning Officer of any function of the Returning Officer;
- (d) the form and manner in which nominations may be made and the procedure to be followed in respect of the presentation of nomination papers;
- (e) the scrutiny of nominations and, in particular, the manner in which such scrutiny shall be conducted and the conditions and circumstances under which any person may be present or may enter objections thereto;
- (f) the publication of a list of valid nominations;
- (g) the appointment and the revocation of the appointment of election agent and the duties of such agent;
- (h) the place and hours of polling, the manner in which votes are to be given and the procedure as to voting to be followed at elections;
- (i) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;

- * (j) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;
- (k) any other matter required to be prescribed by this Act.

25. Jurisdiction of civil courts barred.—Save as provided in Part III, no civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

STATEMENT OF OBJECTS AND REASONS.

Article 54 of the Constitution provides that the President of India shall be elected by the members of an electoral college consisting of (a) the elected members of both Houses of Parliament and (b) the elected members of the Legislative Assemblies of the States, and article 55 prescribes the manner in which the election shall be held. Article 66 provides that the Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting. Article 71(1) lays down that doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court. Article 71(3) authorises Parliament to regulate by law, subject to the provisions of the Constitution, any matter relating to or connected with the election of a President or Vice-President.

The Bill seeks to provide for the conduct of elections to the offices of President and Vice-President, the decision of disputes arising out of or in connection with such elections, the corrupt practices and other offences at or in connection with such elections and other ancillary matters.

KAILAS NATH KATJU.

NEW DELHI;
The 17th January, 1952.

M. N. KAUL, Secy.

